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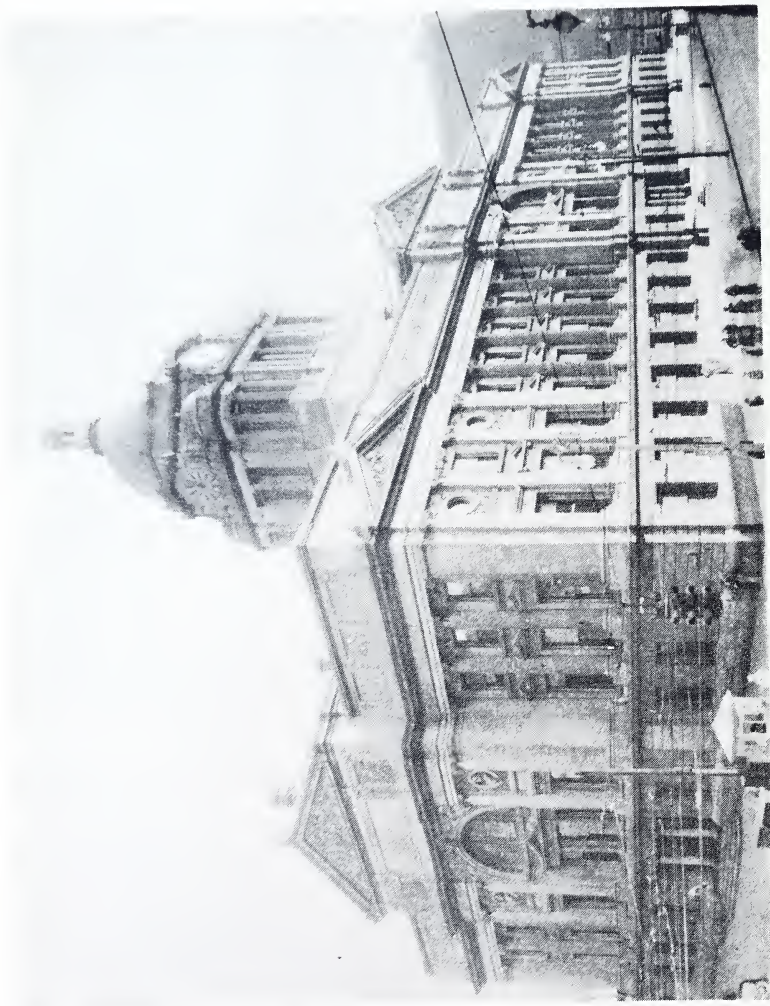












*Courtesy of R. M. Bates*

**ALLEN COUNTY COURTHOUSE, FORT WAYNE, INDIANA**

INVENTORY OF THE COUNTY ARCHIVES  
OF INDIANA

Prepared by

The Indiana Historical Records Survey  
Division of Professional and Service Projects  
Work Projects Administration

NO. 2. ALLEN COUNTY  
(FORT WAYNE)

Historical Records Survey. Indiana

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The Indiana Historical Records Survey  
Indianapolis  
1939



## FOREWORD

The *Inventory of the County Archives of Indiana* is one of a number of bibliographies of historical materials prepared throughout the United States by workers on The Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Allen County, is number 2 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, business men, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by The Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country, will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of The Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their co-operation is gratefully acknowledged.

## FOREWORD

The Survey Program was organized and has been directed by Dr. Luther H. Evans, and operates as a nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

F. C. HARRINGTON  
Commissioner

## PREFACE

The survey of local public records in Indiana was instituted on February 19, 1936, as a part of a nation-wide undertaking under the supervision of Dr. Luther H. Evans. Samuel J. Kagan, Archivist in the Indiana State Library, was assigned to lead the project as State Director. In the beginning the survey was closely associated with the Federal Writers' Project. On September 23, 1936, The Historical Records Survey was nominally as well as factually made independent of the Writers' Project. In general, it has from its very inception acted as a separate and independent unit of Federal Project No. 1. On September 1, 1939, The Indiana Historical Records Survey became a state project, under the sponsorship of the Indiana Historical Bureau.

The inventory proper is preceded by a number of introductory essays to enlighten the reader concerning facts and events forming the background and basis of the records. The entries for the record series are carried in consecutive numbering for the county. The bureaus are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Whenever applicable, natural groupings under separate headings are made within the bureau, and the record entries are arranged thereunder also according to functional sequence. An extensive index will aid the reader to locate records with a minimum of inconvenience and effort.

The field work of the survey of Allen County records was begun at the record depositories on April 7, 1936 and was completed on July 14, 1936. Many visits to the courthouse, however, have since been made by revisors to check and recheck the information contained herein, the final recheck having been made in the spring of 1939.

The editing of this inventory has been conducted by an editorial staff whose labors we deeply appreciate and wish to recognize forthwith: Frank E. Ross, Editor-in-Chief, under whose supervision the final manuscript was prepared for publication; W. Davis Hamilton, legal research; Marshall Cowgill, field supervision and final review of record entries; Fred S.

## PREFACE

Knodle, cartography; and Howard Oates, proofreading and indexing. The housing essay was written by Richard Ira Nation.

Of the industrious and painstaking devotion to his task of each and every person who had a part in the Survey we are keenly aware, and we regret that we cannot commend by name all those whose services have contributed to the publication of this volume.

The Survey is indebted to county officials; to the State Work Projects Administration; to John K. Jennings, State Administrator; to Mildred E. Schmitt, Director of the Professional and Service Division, who has rendered the Survey a great personal service in the administering of the project; to Herbert P. Kenney, Director of the Legislative Bureau, who placed the facilities of the bureau at our command at all times; and to Dr. Christopher B. Coleman, Director of the Indiana Historical Bureau, who has given technical service to the project.

Five hundred copies of this volume have been printed. Copies have been distributed without charge to state libraries, to various governmental offices, and other depositories throughout the state and nation. Copies will also be distributed within the county, upon request, to all persons, public offices and institutions having occasion to use county records.

SAMUEL J. KAGAN

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

September 1939

THE HISTORICAL RECORDS SURVEY PROGRAM

Luther H. Evans, Director

Samuel J. Kagan, State Supervisor

DIVISION OF PROFESSIONAL AND SERVICE PROJECTS

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Alma B. Kerr, Chief Regional Supervisor

Mildred E. Schmitt, State Director

WORK PROJECTS ADMINISTRATION

F. C. Harrington, Commissioner

George H. Field, Regional Director

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---

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1939

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Clarence E. Roy

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Joseph Giant  
Ada Randall  
Albert H. Schaaf  
Clarence Van Horn  
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JUDGE OF THE SUPERIOR COURT  
OF ALLEN COUNTY

Edward W. Meyers

JUDGE OF ALLEN SUPERIOR  
COURT NO. 2

Harry W. Muller

## SHERIFF

Walter A. Felger

## CORONER

Walter E. Kruse

COUNTY SUPERINTENDENT OF  
SCHOOLS

Kelro Whiteman

## ALLEN COUNTY OFFICIALS

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### COMMISSION OF PUBLIC RECORDS

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the circuit court, the auditor, and  
the president of the board of com-  
missioners*

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C. Byron Hayes

### AUDITOR

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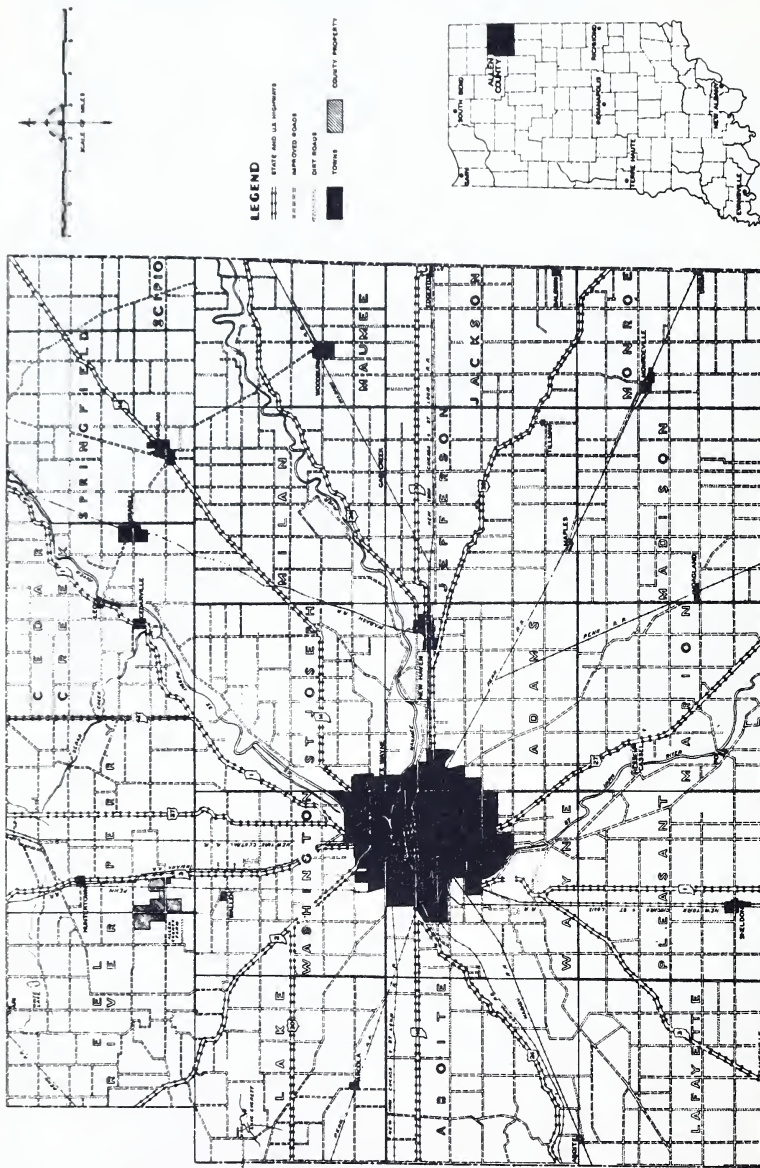
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MAP OF ALLEN COUNTY

## PART A. ALLEN COUNTY AND ITS RECORDS SYSTEM

### 1. HISTORICAL SKETCH

Allen County, situated in northeastern Indiana, has an area of 661 square miles, or 423,040 acres, and is the largest county in the state. By counties it is bounded on the south by Wells and Adams, on the west by Huntington and Whitley, on the north by De Kalb and Noble, and on the east by the State of Ohio. The county is crossed by the forty-first parallel, north latitude, and the eighty-fifth meridian, west longitude. Its average elevation is about 300 feet, annual rainfall about 35 inches and average temperature about 52° Fahrenheit.<sup>1</sup>

### DRAINAGE AND TOPOGRAPHY

The surface of the county is everywhere covered with a sheet of glacial drift seldom less than 100 feet in thickness. The Maumee Lake region, once the site of a glacial lake, occupies the townships of Jackson and Maumee, the greater part of Scipio and Milan, one-half of Jefferson and portions of Springfield, St. Joseph and Adams. It is level to gently undulating with an occasional knoll or ridge. Another level area, Little River Prairie, extends southwest from Fort Wayne to the western boundary of the county and beyond. The largest morainic belt extends in a northeasterly, southwesterly direction across the county, passing through Fort Wayne from whence a lobe extends southeast to the county line. Another morainic strip crosses the extreme northwestern corner of the county. Generally speaking the morainic belts are rolling to hilly but portions of them are level to gently undulating.<sup>2</sup>

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<sup>1</sup> George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County*, 226-227 (Indiana Historical Collections, vol. 19). Indiana State Planning Board, *Preliminary Survey of County Planning Problems in Indiana Counties* (typewritten, 1935-36, in Indiana State Library), Allen County section. *Year Book of the State of Indiana for the Year 1936 (1937)*, 875. Charles R. Dryer, "Report upon the Geology of Allen County," *Indiana Geological Report*, 1888, pp 105-130.

<sup>2</sup> Dryer, *op. cit.*, 107-115. Grover B. Jones and Cornelius Van Duyne, *Soil Survey of Allen County, Indiana* (1909), 5-6.

The eastern and central portions of the county are drained by the Maumee (formed at Fort Wayne by the St. Mary's and St. Joseph Rivers) and tributaries. The Little Wabash and its tributaries drain the west and southwest portions. The northwest corner is drained by Eel River, a tributary of the Wabash. The carrying place or portage between the Maumee and the Little Wabash was of especial importance in determining the early history of Allen County and its environs.<sup>3</sup>

#### THE ABORIGINES AND EARLY INDIANA

The Indians most intimately identified with Allen County after the coming of the white man were the Miami. As early as 1711 they had their chief village, Kekionga, on the present site of Fort Wayne.<sup>4</sup> In the 17th and 18th centuries French missionaries, traders and soldiers penetrated the Mississippi Valley and laid claim to it for New France. About 1722 or earlier they built a fort on the St. Mary's River.<sup>5</sup> The British also laid claim to the region. As a result of a series of conflicts between the two powers, the last of which—the French and Indian War—closed in 1763, the French colonial empire in America came to an end. France was compelled to cede to Great Britain the whole of Canada and all lands east of the Mississippi.<sup>6</sup>

During the American Revolution, General George Rogers Clark conquered the western country in 1778 and 1779, and the Virginia legislature, in December 1778, created the "County of Illinois" for the government of Virginia citizens residing on "the western side of the Ohio."<sup>7</sup> After the Revolution, the Ohio Valley was claimed by several of the states, upon the basis of their colonial charters from British monarchs. These claims were finally ceded to the United States, and by the Ordinance of 1787, Congress created the Northwest Territory for the government of the western country.<sup>8</sup>

General Arthur St. Clair, governor of the Northwest Territory, by proclamation of June 20, 1790, organized all of what

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<sup>3</sup> *Ibid.*,

<sup>4</sup> Frederick W. Hodge, *Handbook of American Indians North of Mexico* (1912), 1:852-854.

<sup>5</sup> Milo M. Quaife, "Fort Wayne in 1790," *Indiana Historical Society Publications*, 7:301.

<sup>6</sup> Adam Shortt and A. G. Doughty, editors, *Documents Relating to the Constitutional History of Canada, 1759-1791* (Ottawa, 1907).

<sup>7</sup> William W. Hening, editor, *The Statutes at Large . . . of Virginia*, 9:352.

<sup>8</sup> Clarence E. Carter, editor, *The Territorial Papers of the United States*, (1934), 2:3 *et seq.*

is now Indiana and parts of Ohio, Michigan, Wisconsin, and Illinois into Knox County.<sup>9</sup> In 1800 Indiana Territory was created.<sup>10</sup> In 1816 Indiana, with approximately its present boundaries, was organized and admitted into the Union as a state.<sup>11</sup>

#### WHITE SETTLEMENT

The most serious obstacle in the way of the settlement of the western country was the hostility of the Indians, who were encouraged and aided by the British at Detroit. In 1790 the Miami Indians ably led by their great chief, Little Turtle, defeated an expedition under General Josiah Hamar on and near the present site of Fort Wayne and another under General Arthur St. Clair near the headwaters of the Wabash the following year.<sup>12</sup> A disastrous defeat inflicted on the Miami by General Anthony Wayne in the battle of Fallen Timbers on August 20, 1794, broke the resistance of the Indians and they were forced to sue for peace.<sup>13</sup> By the treaty of Greenville, signed August 3, 1795, about half of Ohio and a small portion of Indiana, including Fort Wayne, were opened to settlement.<sup>14</sup> The almost constant friction between the two races following the treaty of Greenville did not result in open hostility until 1811 when the attempt of Tecumseh to organize the Indians into a confederacy to resist further encroachment by the whites culminated in the battle of Tippecanoe. In this battle the savages were beaten decisively by General William Henry Harrison.<sup>15</sup> A few years later, by the treaty of St. Mary's, October 1818, the Miami yielded all of Allen County, save for certain reservations guaranteed to the family of Chief Richardville.<sup>16</sup>

<sup>9</sup> William H. Smith, *The St. Clair Papers* (1882), 2:166 N.

<sup>10</sup> *Annals of Congress*, 6th Congress, 1st Session, 1498.

<sup>11</sup> For the resolution favoring its admission, see *Annals of Congress*, 14th Congress, 2nd Session, 1348; for the enabling act, see *Ibid.*, 14th Congress, 1st Session, 1841.

<sup>12</sup> William H. Smith, *op. cit.*, 1:168-170.

<sup>13</sup> Clarence M. Burton, "Anthony Wayne and the Battle of Fallen Timbers," *Michigan Pioneer and Historical Society Collections*, 21:472-489.

<sup>14</sup> "Treaties between the U. S. and the Indian Tribes," *The Public Statutes at Large of the U. S. A.*, 7:49-54. Charles J. Kappler, *Indian Affairs. Laws and Treaties*, 2:30-34 (printed as U. S. Senate Document No. 452, 57th Congress, 1st Session).

<sup>15</sup> For Harrison's official report of the battle, see *American State Papers, Indian Affairs*, 1:776-780.

<sup>16</sup> "Treaties between the U. S. and the Indian Tribes," *loc. cit.*, 7:188-192. Kappler, *op. cit.*, 2:118-121,

As early as 1784, General George Washington saw the desirability of constructing a fort at the head of the Maumee River.<sup>17</sup> On September 24, 1794, five weeks after the battle of Fallen Timbers, work on the fort was begun. Four weeks later it was completed and named Fort Wayne.<sup>18</sup>

In 1800 the fort thus hurriedly erected was replaced by another constructed about 300 feet north of the old location on the present site of Old Fort Park.<sup>19</sup> In 1812 the garrison here successfully resisted a combined force of British and Indians until General Harrison came to its relief.<sup>20</sup> About four years later the fort was again rebuilt.<sup>21</sup> In 1819 its garrison was permanently withdrawn.<sup>22</sup> In 1852 the last part then remaining, a blockhouse, was torn down.<sup>23</sup>

Thomas Scattergood Teas, who visited Fort Wayne in 1821, described the fort and the community of which it was the center as follows:

"The settlement at this place consisted of about 30 log cabins and two tolerably decent frame houses . . . The inhabitants are nearly all Canadians. The fort stands at the lower end of the village, and is composed of hewn log buildings about 35 feet high, and the intervals between them filled up with a double row of pickets, 20 feet high. It is about 60 yards square. There is no garrison kept here, and the barracks are occupied by the Indian Agent, the Baptist missionary, and some private families."<sup>24</sup>

Louis Peltier settled on the site of Fort Wayne "long before the Wayne campaign." Of those who came to the community about the time the county was organized, Francis Compaet, Alexander Ewing, and Samuel Hanna were outstanding. Compaet, a representative of the American Fur Company, joined the community in 1820. Ewing came in 1822 and until his death five years later operated a tavern. The Ewing addition to Fort Wayne was made from land which he purchased.

<sup>17</sup> William H. Smith, *op. cit.*, 2:181.

<sup>18</sup> Lieutenant Boyer, "A Journal of Wayne's Campaign," in *Biographical Sketch of the Life of Captain Michael Cresap*.

<sup>19</sup> B. J. Griswold, *Fort Wayne, Gateway of the West* (1927), 18.

<sup>20</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, (1917), 1:198-213.

<sup>21</sup> *Ibid.*, 229.

<sup>22</sup> *Ibid.*, 240, 241.

<sup>23</sup> *Ibid.*, 143.

<sup>24</sup> Harlow Lindley, editor, *Indiana as Seen by Early Travelers*, 250 (*Indiana Historical Collections*, vol. 3).

Hanna came in 1819. He engaged in many endeavors but was primarily interested in improving the means of transportation.<sup>25</sup>

#### CREATION AND ORGANIZATION

Allen County, named for Colonel John Allen of Kentucky, who led a regiment of Harrison's army to the relief of Fort Wayne in 1812, when it was besieged by British and Indians, was created by the Indiana General Assembly in an act approved December 17, 1823, effective April 1, 1824.<sup>26</sup> Previously the county had been a part of Knox County, Northwest Territory (1790); Knox County, Indiana Territory (1800); and Knox County, State of Indiana (1816). With the formation of Sullivan County in 1817, Knox County became two disjoined areas, with county organization persisting only in the southern area. In 1820 Allen was divided between Randolph and Delaware Counties.<sup>27</sup>

The boundaries of the new county of Allen were described in the law of December 17, 1823:

"Beginning at a point on the line dividing this state and the state of Ohio, where the township line dividing township twenty-eight and twenty-nine north, intersects the same; thence north with said state line twenty-four miles; thence west to the line dividing ranges ten and eleven east; thence south to the line dividing township twenty-eight and twenty-nine north, thence east to the place of beginning."<sup>28</sup>

On April 1, 1824 the governor of Indiana appointed Thomas Forsythe coroner of Allen County. Subsequently the governor commissioned other officials: Allen Hamilton, sheriff (April 2); Anthony L. Davis, clerk of the circuit court (April 15); Samuel Hanna and Benjamin Cushman, associate judges of the circuit court (April 15); and Chauncey Carter, surveyor (June 18).<sup>29</sup>

"Wednesday Twelve O'clock the 26th day of May . . . 1824. The Board of County Commissioners of Allen County met

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<sup>25</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:176, 247, 254-255. Robert S. Robertson, *History of the Maumee Basin*, 3:80-87.

<sup>26</sup> Revised Laws 1824, ch. 18, sec. 1.

<sup>27</sup> Pence and Armstrong, *op. cit.*, *passim*.

<sup>28</sup> Revised Laws 1824, ch. 18, sec. 1

<sup>29</sup> Executive Proceedings, 1823-1836, p.68, manuscript record in the vaults of the Indiana Secretary of State.

in pursuance to the provisions of a Special act of the General assembly . . . at the house of Alexander Ewing in Fort Wayne."<sup>30</sup> Thus begins the Allen County Commissioners' Record. At this first meeting, William Rockhill, James Wyman and Francis Comparet produced certificates from Sheriff Hamilton declaring that each had been duly elected a county commissioner for the county of Allen.<sup>31</sup> The board proceeded to appoint Joseph Holman, county treasurer; John Tipton, county agent; Hugh Ball McKeen, lister of taxable property; Lambert Cushvois, constable; Robert Hars, inspector of elections; and William Hood, inspector of flour, beef and pork.<sup>32</sup>

#### THE COUNTY SEAT

In May 1824 the commissioners appointed by the Indiana legislature to choose the site for the county seat of Allen County selected Fort Wayne. In consideration of its selection John McCorkle and John Barr, who at a land sale the previous October had bought much of the land on which Fort Wayne now stands, agreed to give the county \$500 and real estate to be used as sites for public buildings and other public purposes.<sup>33</sup> At a public sale of town lots held in Fort Wayne on September 18, 1824 prices of lots ranged from \$10.25 for lot 110 to \$51 for lot 101. Some of the purchasers of lots were Francis Comparet, Alexander Ewing, Samuel Hanna, Chief Jean B. Richardville and Ben, a negro.<sup>34</sup>

#### TOWNSHIPS

On May 31, 1824 Wayne Township, comprising all of Allen County, was created.<sup>35</sup> In January 1826, Adams Township, comprising that part of the county east of the line dividing ranges 12 and 13, was created.<sup>36</sup> St. Joseph Township was created in 1828; Washington in 1832; Root (later changed to Marion) in 1834; Perry in 1835; Eel River, Milan, Maumee, and Aboite in 1836; Cedar Creek, Springfield, and Lake in

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<sup>30</sup> Commissioners' Record, A:1, see entry 2.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*, A:103.

<sup>33</sup> T. B. Helm, editor, *History of Allen County, Indiana* (1880), 46.

<sup>34</sup> Commissioners' Record, A:18.

<sup>35</sup> *Ibid.*, A:2.

<sup>36</sup> *Ibid.*, 49.

1837; Jefferson and Madison in 1840; Monroe in 1841; Pleasant in 1842; Scipio in 1843; Lafayette in 1846; and Jackson in 1851. As finally arranged, all the civil townships save Scipio, Maumee, Jackson and Monroe, coincide with Congressional townships. Those four have areas less than Congressional townships.<sup>37</sup>

#### TAXATION

At their May session, 1824, the board of commissioners entered in the minutes the following schedule of taxes:

"On every male person over the age of 21 years 50 cts; On every Horse, Gelding, Mare, Mule of 3 years old and upwards each .37½; On every Work Oxen three years old and upward .18¾; On every Stud Horse the rate at which he stands pr season; On every gold Watch 1.00; On every Silver Watch .25; On every Pinch Back Watch .25; On every Pleasure Carriage four wheels 1.50; On every pleasure carriage two wheels 1.00."<sup>38</sup>

#### LICENSES AND RATE REGULATIONS

Among the businesses for which licenses were required were taverns, stores and ferries. William Sittenfield, the first person to be granted a license to operate a tavern in Allen County, paid a fee of \$12.50.<sup>39</sup> Joseph Holman, who was licensed "to vend foreign merchandise in the County of Allen for one year," paid \$10 for the privilege,<sup>40</sup> while the Fort Wayne Department of the American Fur Company paid \$25.<sup>41</sup> Tavern prices were set by the board of commissioners in 1824:

"For keeping Horse Night and Day .50 cts.; For Lodging per Night .12½ cts.; For Whiskey per Half Pint .12½ cts.; For Brandy per Half Pint .50 cts.; For Gin per Half Pint .37½ cts.; For Porter per bottle .37½ cts.; For Cider per Quart .18¾ cts."<sup>42</sup>

A fee of \$1 was charged to operate a ferry in Allen

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<sup>37</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:587 et seq.

<sup>38</sup> Commissioners' Record, A:4, see entry 2.

<sup>39</sup> *Ibid.*, A:6.

<sup>40</sup> *Ibid.*, 5.

<sup>41</sup> *Ibid.*, 42.

<sup>42</sup> *Ibid.*, 4.

County.<sup>43</sup> Ferry rates were established in 1829 as follows: "for a footman 6¼ Cents; for a man and a Horse 12½ Cents; for each head of horses and Cattle 6½; hogs and Sheep 3 Cents; Oxen 25; Wagon and two or more horses 50 Cents."<sup>44</sup>

### ROADS

Road building in Allen County in the early days, as in other pioneer communities, was a matter not of convenience but of necessity. Perhaps no other community activity occupied so much time and attention. By an act of the Indiana legislature of January 1, 1817, the county commissioners were empowered "to make and enforce all orders necessary, as well for the opening of new roads which may be useful and convenient as to vacate any public road which upon inquiry shall be found useless and burdensome within their respective counties."<sup>45</sup> The same act made each and every male person, over eighteen years of age and under fifty, who had resided thirty days within any township in this state, liable to work on roads and public highways not exceeding six days in any one year.<sup>46</sup>

Thus empowered, Allen County improved its opportunities. Scattered throughout the Commissioners' Record are entries relating to road building of which the following are representative: "Ordered that further time be allowed the reviewers to view and locate the road leading from Aboit to Kraco."<sup>47</sup> "Ordered that William Caswell be appointed Supervisor of roads."<sup>48</sup> "Ordered that Ruben J. Dawson be allowed \$104 for surveying county road."<sup>49</sup> "Ordered that Thomas Robb be allowed the sum of twenty-five cents for his services on state road."<sup>50</sup>

About the middle of the century plank roads came into use. In the spring of 1843, the Fort Wayne and Lima Plank Road Company was organized with Samuel Hanna, president,

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<sup>43</sup> *Ibid.*, 120.

<sup>44</sup> *Ibid.*

<sup>45</sup> Acts 1816-17 (general), ch. 8, sec. 1.

<sup>46</sup> *Ibid.*, sec. 10.

<sup>47</sup> Commissioners' Record, A:321.

<sup>48</sup> *Ibid.*, A:44.

<sup>49</sup> *Ibid.*, 324.

<sup>50</sup> *Ibid.*, 13.

and O. W. Jefferds, secretary.<sup>51</sup> Not until 1867 when the New Haven and Grand Pike Road, six miles in length, was constructed at a cost of \$3,000 per mile, was there a gravel road in the county.<sup>52</sup>

#### THE WABASH AND ERIE CANAL

On February 22, 1832 at Fort Wayne first ground was broken for the Wabash and Erie Canal.<sup>53</sup> In 1843, after many discouraging circumstances, the canal was completed eastward to Maumee Bay and westward to Lafayette.<sup>54</sup> The effect was revolutionary. In 1845 there were shipped from Fort Wayne 32,816 bushels of wheat and 32,127 bushels of corn.<sup>55</sup> In 1851 the amount of these commodities shipped from Fort Wayne were 308,034 and 73,373, respectively.<sup>56</sup> The quantity of other articles shipped showed a similar increase during the same period.

In his *Charcoal Sketches* John W. Dawson gives us an insight into the romance which the canal boat brought to Fort Wayne:

"Behind the buildings which front on Columbia Street was a spare space between them and the canal which was called 'the Dock', and there all boats landed and received and discharged freight and passengers, and to 'the Dock' people resorted for pleasures and business. The boat horn announced the arrival and the departure of the packets, and it was a sweet sound to us who were locked in by swamps and distances."<sup>57</sup>

With the coming of the railroad, canal revenues declined sharply and the canal was doomed.<sup>58</sup>

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<sup>51</sup> Helm, *op. cit.*, 58.

<sup>52</sup> *Ibid.*, 58-59.

<sup>53</sup> Elbert J. Benton, *The Wabash Trade Route in the Development of the Old Northwest* (1903), 48.

<sup>54</sup> *Report of the Superintendent of the Wabash and Erie Canal, West of Lafayette, to the General Assembly, 1844*, p. 17.

<sup>55</sup> *Report of the Superintendent of the Wabash and Erie Canal to the General Assembly, 1846*, p. 156.

<sup>56</sup> *Annual Report of the Trustees of the Wabash and Erie Canal to the General Assembly of the State of Indiana, 1852*, p. 365.

<sup>57</sup> Quoted in B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:369

<sup>58</sup> *Annual Report of the Trustees and Officers of the Wabash and Erie Canal to the Governor, 1873*, p. 17.

## RAILROAD BUILDING

On June 6, 1851 the board of commissioners authorized the purchase by the county of stock to the value of \$100,000 in the Ohio and Indiana Railroad, organized the year previous. To pay the interest on the bonds issued for this purpose, levies of 20 cents on each \$100 of property valuation were made in 1851 and 1852.<sup>59</sup>

In 1856 the Ohio and Indiana was consolidated with other roads to form the Pittsburgh, Fort Wayne and Chicago (the Pennsylvania).<sup>60</sup> In July 1855, the Toledo, Wabash and Western Railroad (the Wabash) was completed from Toledo to Fort Wayne.<sup>61</sup> After the Civil War other railroads reached the county. At the present time, it is served by the Pennsylvania, Nickel Plate, Wabash, and New York Central steam railroads; and the Indiana Railroad, an electric line. Several hard-surfaced roads likewise traverse the county.

## SOCIAL WELFARE

One of the first acts of the Allen County Board of Commissioners was the appointment of John Davis and Alexander Coquillard overseers of the poor in Wayne Township which at that time comprised all of Allen County.<sup>62</sup> It was the duty of the overseers as prescribed by an act of the Indiana legislature of January 24, 1818 "to cause all poor persons, who have or shall become a public charge to be farmed out at public vendure or outcry . . . to the person or persons who shall appear to the lowest bidder or bidders."<sup>63</sup> Children who had no means of support were to be apprenticed, the girls until they were eighteen years of age and the boys until they were twenty-one.<sup>64</sup>

Evidence of the care of the poor and the otherwise unfortunate in Allen County is furnished by numerous entries in the Commissioners' Record such as the following: "Ordered by the board that Joseph Morrisaw be allowed the sum of \$16 for boarding Arcanges Furnace two months ending the 14th of

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<sup>59</sup> Commissioners' Record, C:154.

<sup>60</sup> Charles E. Slocum, *History of the Maumee River Basin* (1905), 1:622.

<sup>61</sup> *Ibid.*

<sup>62</sup> Commissioners' Record, A:2

<sup>63</sup> Acts 1817-18 (general), ch. 14, sec. 3.

<sup>64</sup> *Ibid.*, sec. 7.

July 1825."<sup>65</sup> "Ordered that Robert Douglass be allowed \$39 for boarding, clothing and lodging John King."<sup>66</sup> "Ordered that Hugh Hanna be allowed \$8 for making a coffin for William Adams, a pauper."<sup>67</sup> "Ordered that Joseph Holman be allowed \$1.87½ for funeral expenses of Isaac Vanille as certified by the Overseers of the Poor payable out of the county treasury."<sup>68</sup> "Ordered that Hiram Todd be allowed \$15 for medical services for Samuel Harris, a pauper."<sup>69</sup>

By 1843 a new policy for the care of the poor had been adopted for the county, for we find entered upon the Commissioners' Record: "Ordered by the court that public notice be given in the *Fort Wayne Times* that the Board of County Commissioners will receive at their March session, 1843, sealed proposals for keeping the county poor at the poor house. Also that they will lease the farm belonging to the county."<sup>70</sup> On December 30, 1854, J. B. Reinicke was employed to keep the "county asylum" for a period of three years for \$25.47 and the use of the farm.<sup>71</sup>

In 1915 the county purchased 797 acres of land in Eel River and Perry Townships upon which an infirmary and an anti-tuberculosis camp are maintained.<sup>72</sup>

## EDUCATION

The first school in Allen County of which there is any record was a Baptist mission established by Reverend Isaac McCoy in the Old Fort in 1820. During its first year it had ten English pupils, six French, eight Indians, and one negro in attendance.<sup>73</sup>

The first public school in Allen County was the seminary. The Indiana Constitution of 1816 provided that money paid for exemption from militia duty and fines assessed for any breach

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<sup>65</sup> Commissioners' Record, A:47.

<sup>66</sup> *Ibid.*, 43.

<sup>67</sup> *Ibid.*, 119.

<sup>68</sup> *Ibid.*, 30.

<sup>69</sup> *Ibid.*, 80.

<sup>70</sup> *Ibid.*, B:193.

<sup>71</sup> *Ibid.*, C:407-408.

For details of present-day poor relief, see the essay entitled "County Department of Public Welfare," in Part B of this book.

<sup>72</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:659.

<sup>73</sup> Isaac McCoy, *History of Baptist Indian Missions* (1840), 71-75.

of the penal law should be applied to county seminaries.<sup>74</sup> An act of the Indiana legislature provided for the appointment in each county of a "trustee of seminary funds" whose duty it should be "to call upon and receive from the county treasurer, and such other persons as have, or by law ought to have, any fines in his or their hands belonging properly to the county for the use of a public seminary therein."<sup>75</sup>

The Allen County seminary building, a one-story brick building, was constructed in 1825. John P. Hedges was the first teacher of this school. In 1833 tuition per term was as follows: For reading and spelling, \$2.50; for writing and arithmetic, \$3.00; for English, grammar, and geography, \$2.00; for store rent and fuel 40 cents.<sup>76</sup>

A law of 1852 directed that all seminary property in the state be sold and the proceeds be transferred to the common school fund.<sup>77</sup> In 1857 this fund, which for the greater part was derived from the sale of school lands, amounted in Allen County to \$44,027.<sup>78</sup>

On January 18, 1847 the Fort Wayne Female College was incorporated by the Indiana legislature.<sup>79</sup> It opened in September 1847, with A. C. Heustes, acting president, and Samuel Brenton, secretary. Later it moved to Upland, Indiana, becoming the nucleus of Taylor University.<sup>80</sup>

The Fort Wayne College of Medicine was organized at Fort Wayne in March 1876. The institution encountered considerable opposition from the citizenry, many of whom objected to the dissecting of human bodies, some of which, it was claimed, were stolen from local cemeteries. The college survived the attack and was later incorporated with Purdue and still later with Indiana University.<sup>81</sup>

On September 9, 1861, Concordia College, a Lutheran institution, opened at Fort Wayne with three professors and seventy-eight students.<sup>82</sup> The general purpose of the college

<sup>74</sup> Const. 1816, art. 9, secs. 3.

<sup>75</sup> Acts 1817-18 (general), ch. 72.

<sup>76</sup> Slocumb, *op. cit.*, 1:592. B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:305.

<sup>77</sup> 1 Rev. Stat. 1852, ch. 97.

<sup>78</sup> Richard G. Boone, *A History of Education in Indiana* (1892), 175.

<sup>79</sup> Acts 1846-47 (local), ch. 22.

<sup>80</sup> Slocum, *op. cit.*, 1:593.

<sup>81</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, 1:499-501.

<sup>82</sup> *Concordia College Catalogue*, 1939, p.4.

is "to foster in its students the fear of God, which is the beginning of all wisdom." Its more specific purpose is to lay the broad linguistic and cultural foundations necessary for the special study of theology at Concordia Seminary at St. Louis, Missouri.<sup>83</sup> For the year 1938-39, 65 men were enrolled in the college and 250 boys and girls in the high school operated in connection with the college.<sup>84</sup> During the same year there were thirteen members of the college faculty, and seven teachers in the high school.<sup>85</sup>

In 1930 Indiana Technical College was founded at Fort Wayne.<sup>86</sup> In 1938 it enrolled 590 students from 43 states and 13 foreign countries.<sup>87</sup>

### CHURCHES

Although no records remain that testify to it there can be little doubt that the Jesuits were the first to teach the precepts of Christianity within the limits of what is now Allen County. In 1828 the First Methodist Episcopal Church was organized in Fort Wayne.<sup>88</sup> The First Presbyterian Church was organized in 1831.<sup>89</sup> In 1837 St. Augustine's, the first Catholic Church in Fort Wayne, was constructed.<sup>90</sup> In 1857 forty-two northern counties of Indiana were organized into the diocese of Fort Wayne. Rt. Rev. J. H. Lewis became the first bishop.<sup>91</sup> Two years later the Cathedral of the Immaculate Conception was built.<sup>92</sup> Lutheranism was introduced into the county by Reverend Jesse Hoover who came to Fort Wayne from Canada for that purpose in 1837.<sup>93</sup> In 1848 the first Jewish congregation was founded at Fort Wayne.<sup>94</sup>

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<sup>83</sup> *Ibid.*, 4, 5

<sup>84</sup> *Ibid.*, 17-20

<sup>85</sup> *Ibid.*, 3

<sup>86</sup> *Indiana Technical College Catalogue, 1939-1940*, p.2

<sup>87</sup> *Ibid.*, 46-51

<sup>88</sup> News article in the *Fort Wayne Journal Gazette*, July 24, 1938

<sup>89</sup> *Ibid.*

<sup>90</sup> H J Alerding, *The Diocese of Fort Wayne* (1907), 203

<sup>91</sup> *Ibid.*, 29

<sup>92</sup> *Ibid.*, 203

<sup>93</sup> News article in the *Fort Wayne Journal Gazette*, July 24, 1938

<sup>94</sup> *Ibid.*

## THE COUNTY LIBRARY

The Indiana Constitution of 1816 provided that ten percent of the proceeds of the sale of town lots in the county seats should be set aside for county libraries.<sup>95</sup> In March 1842 the commissioners paid over to the library trustees two hundred and twenty-five dollars.<sup>96</sup> At that time the fund amounted to about \$1700.<sup>97</sup> In December 1851 the treasurer reported that books costing \$150.98 had been bought and turned over to the librarian.<sup>98</sup> In December 1855 the county was divided into library districts, Wayne Township constituting one district. The other districts were composed of two or more townships. Eventually the surviving books passed into the hands of the township trustees and became a part of township libraries.<sup>99</sup>

## ALLEN COUNTY TODAY

From a population of 5,942 in 1840,<sup>100</sup> Allen County has grown to 146,743 in 1930. Eighty percent of the 1930 population of the county lived in Fort Wayne. Within the county there are twenty-six towns and villages besides numerous points or centers in which some of the community life of the county is centered. Four of the towns are incorporated, Woodburn (Shirley City), New Haven, Monroeville and Grabill. New Haven, the largest of these, had a population of 1,702 in 1930. In 1929 the 3,427 farms of the county were valued at \$37,026,866. The average size of the farms was 101 acres and the value per acre \$105. The value of the crops produced in 1929 was \$6,236,246. Of the 114,946 people in Fort Wayne in 1930, 106,776 were native white, 5,729 foreign born white, and 2,360 negro. Within the city there are 28,676 homes, 59 churches, 58 schools, 6 hospitals, 1,452 retail establishments, 138 wholesale and jobbing establishments, 1 library and 2 radio stations.<sup>101</sup>

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<sup>95</sup> Const. 1816, art. sec. 5.

<sup>96</sup> Commissioners' Record, B:151.

<sup>97</sup> Robertson, *op. cit.*, 2:327-328.

<sup>98</sup> *Ibid.*, 328.

<sup>99</sup> *Ibid.*, 329.

<sup>100</sup> *Compendium of the Enumeration of the Inhabitants and Statistics of the United States, as Obtained . . . from the Returns of the Sixth Census: 1840 (1841)*, 82.

<sup>101</sup> *Fifteenth Census of the United States: 1930, Population*, 3: pt. 1:715, 731.

The list of products manufactured in Fort Wayne includes electrical apparatus, electric signs, harvesting machinery, pumps, furniture, clothing, beverages, meters, mining and oil machinery, railroad car wheels, tool and dies, washing machines and ironers, refrigerators, plumbing supplies, motor trucks, radio equipment, paints, pistons, hosiery, and cigars.<sup>102</sup>

Among the places and things in Fort Wayne and Allen County possessing special interest are: Several buildings of particular beauty of architectural design, including several churches, the county courthouse, and the Federal Building; the Scottish Rite Cathedral; Memorial Cabin, a facsimile of the one in which Lincoln was born, erected in Foster Park in 1914 by the Lincoln Life Insurance Company; the Lincoln Museum containing the largest collection of Lincolniana in the world, established and maintained by the Lincoln Foundation; the Historical Museum; marker to the supposed grave of Little Turtle; a tablet erected in honor of Johnny Appleseed (John Chapman) by the Indiana Horticultural Society; monument to General Henry W. Lawton, in Lakeside Park; a heroic bronze equestrian statue of General Anthony Wayne, erected by the city of Fort Wayne in Hayden Park in 1918; memorial to the veterans of the World War, erected by the city of Fort Wayne and Allen County in Memorial Park in 1918; and the well-equipped municipal airport.

## 2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

### LEGAL STATUS OF THE COUNTY

A county is an involuntary corporation, organized by the Indiana General Assembly as a political subdivision of the state, solely for governmental purposes. It is an instrumentality of government, exercising the powers delegated by the state and acting for the state. County officers are but agents of the state. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the general assembly. Except as limited by the constitution, the general assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.<sup>1</sup>

<sup>102</sup> Indiana State Planning Board, *op. cit.*

<sup>1</sup> Gavin v. Board of County Comrs. (1885), 104 Ind. 201, 3 N. E. 846; Applegate v. Pettijohn (1933), 205 Ind. 122, 125, 185 N. E. 911; McDermott v. Board of County Comrs. (1915), 60 Ind. App. 209, 110 N. E. 237; Buck v. Indiana Constr. Co. (1923), 79 Ind. App. 329, 138 N. E. 356.

Before the adoption of the Constitution of 1851, the general assembly had full power to enact local or special laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local or special laws concerning several specified subjects affecting county organization and functions.<sup>2</sup> The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld<sup>3</sup> and sometimes held void as being in conflict with said constitutional provisions.<sup>4</sup> Laws made applicable to localities having property of specified assessed valuation have been upheld.<sup>5</sup> Sometimes a law affecting county organization or functions provides that it shall become operative in any county when approved by the voters or the board of commissioners of that county. The offices and courts created by the constitution exist in every county, but there is variation as to offices, boards, agencies, and courts created by statute.

The county system of government is an inheritance from England and the American colonies, whence pioneers brought their customs and laws. Its beginnings in Indiana are found in the Ordinance of 1787, enacted by Congress for the government of the Territory of the United States Northwest of the River Ohio; in the act of Congress of May 7, 1800, creating Indiana Territory; and in the laws of the Northwest Territory, 1788-1800, and of the Indiana Territory, 1805-15, enacted by the territorial general assemblies.

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<sup>2</sup> Const., art. 4, secs. 22, 23.

<sup>3</sup> State ex. rel. Hargrave v. Reitz (1878), 62 Ind. 159; Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Wayne Twp. v. Brown (1933), 205 Ind. 437, 186 N. E. 841; Meara v. Brindley (1935), 207 Ind. 657, 194 N. E. 351; Groves v. Board of County Comrs. (1936), 209 Ind. 371, 199 N. E. 137; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76; Board of County Comrs. v. Crowe (1938), — Ind. —, 14 N. E. (2d) 907.

<sup>4</sup> Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Rushville v. Hayes (1904), 162 Ind. 193, 70 N. E. 134; Eumb v. Evansville (1907), 168 Ind. 272, 80 N. E. 625; Kraus v. Lehman (1908), 170 Ind. 493, 83 N. E. 714; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Boberg v. Harlem (1924), 194 Ind. 310, 142 N. E. 705; Heffelfinger v. Ft. Wayne (1925), 196 Ind. 689, 149 N. E. 555; Heckler v. Conter (1933), 206 Ind. 376, 187 N. E. 878; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76.

<sup>5</sup> Gruber v. State ex rel. Welliver (1925), 196 Ind. 436, 148 N. E. 481; Board of County Comrs. v. Crowe (1938), — Ind. —, 14 N. E. (2d) 903.

In 1781, 1784, 1785, and 1786, New York, Virginia, Massachusetts, and Connecticut ceded to the United States their claims to all the land north of the Ohio River, comprising Indiana, Illinois, Michigan, Ohio, Wisconsin, and part of Minnesota. This land became known as the Northwest Territory.<sup>6</sup>

The Ordinance of 1787 authorized the creation of counties by proclamation of the governor until the organization of the territorial general assembly, and thereafter by the latter;<sup>7</sup> and this authority was continued by the act of Congress creating Indiana Territory.<sup>8</sup>

The governor of the Northwest Territory, by proclamation of June 20, 1790, created Knox County, embracing all of what is now the State of Indiana (as well as parts of Illinois, Michigan, Ohio, and Wisconsin).<sup>9</sup>

By an act of May 7, 1800, effective July 4, 1800, Congress divided the Northwest Territory into two parts, the Eastern Division and the Western Division. The eastern boundary line of the Western Division extended from the Ohio River opposite the mouth of the Kentucky River (through the present Indiana counties of Switzerland, Ohio, Dearborn, Franklin, Union, Wayne, Randolph, and Jay; and through the present Ohio county of Mercer) to Fort Recovery, and thence north (through the present Ohio counties of Mercer, Van Wert, Paulding, Defiance, and Williams; and through the present State of Michigan) to the boundary line between the United States and Canada. By this act the said Western Division of the Northwest Territory became Indiana Territory. By an act of Congress of April 30, 1802 (the enabling act for the formation of the State of Ohio), the present north and west boundaries of Ohio were established; and all the land previously included in the Eastern Division of the Northwest Territory and not retained by said act for the State of Ohio was transferred to Indiana Territory.<sup>10</sup>

By an act of January 11, 1805, effective June 30, 1805, Congress created Michigan Territory out of all that part of Indiana Territory north of a line drawn east from the southerly

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<sup>6</sup> Clarence E. Carter, editor, *The Territorial Papers of the United States*, 2:3 et seq.

<sup>7</sup> Laws N. W. Terr., Ordinance of 1787, p. 125.

<sup>8</sup> *U. S. Statutes at Large*, 2:58.

<sup>9</sup> William Henry Smith, editor, *The St. Clair Papers*, 2:166n. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514, 515.

<sup>10</sup> *U. S. Statutes at Large*, 2:58, 59, 173-175, 201, 202. Pence and Armstrong, *op. cit.*, 140, 141. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

extreme of Lake Michigan to Lake Erie, and lying east of a line drawn from said southerly extreme of Lake Michigan through the middle of said lake to its northern extremity and thence due north to the northern boundary of the United States. By said act, the southern boundary line of Michigan Territory was placed about 10 miles south of the present northern boundary line of the State of Indiana, and passed through the present Indiana counties of Lake, Porter, La Porte, St Joseph, Elkhart, La Grange, and Steuben. An act of Congress of April 19, 1816 (the enabling act for the admission of Indiana into the Union) established the present northern boundary line of Indiana.<sup>11</sup>

By an act of February 3, 1809, effective March 1, 1809, Congress created Illinois Territory out of "all that part of the Indiana Territory which lies west of the Wabash River, and a direct line drawn from said Wabash River and Post Vincennes, due north to the territorial line between the United States and Canada." This act created the present western boundary line of the State of Indiana, but it was not until 1823 that the actual boundary line under this act was settled by the general assemblies of Illinois and Indiana.<sup>12</sup>

The Ohio River is the southern boundary of Indiana, and was the southern boundary of the same area when included in Northwest Territory and Indiana Territory.<sup>13</sup>

Indiana, with its present boundaries, was admitted into the Union by a resolution of Congress of December 11, 1816, pursuant to the enabling act of April 19, 1816.<sup>14</sup>

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the governor of the Northwest Territory on June 20, 1790.<sup>15</sup> The counties of Clark<sup>16</sup> and Dearborn<sup>17</sup> were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the governor of Indiana

<sup>11</sup> U. S. Statutes at Large, 2:309, 310; 3:289-291, 399, 400. Pence and Armstrong, *op. cit.*, 142, 143, 147. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

<sup>12</sup> U. S. Statutes at Large, 2:514, 515. Pence and Armstrong, *op. cit.*, 12, 13, 144, 145. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

<sup>13</sup> Ordinance of 1787. U. S. Statutes at Large, 2:58, 59, 173, 174; 3:289, 399, 400. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

<sup>14</sup> U. S. Statutes at Large, 3:289-291, 399, 400. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

<sup>15</sup> William Henry Smith, *op. cit.*, 2:166 note.

<sup>16</sup> Pence and Armstrong, *op. cit.*, 256.

<sup>17</sup> *Ibid.*, 210.

Territory. The counties of Franklin,<sup>18</sup> Gibson,<sup>19</sup> Harrison,<sup>20</sup> Jackson,<sup>21</sup> Jefferson,<sup>22</sup> Orange,<sup>23</sup> Perry,<sup>24</sup> Posey,<sup>25</sup> Switzerland,<sup>26</sup> Warrick,<sup>27</sup> Washington,<sup>28</sup> and Wayne<sup>29</sup> were created by special acts of the General Assembly of Indiana Territory. These fifteen counties are all mentioned in the Constitution of 1816.<sup>30</sup> The remaining 77 counties were created by special acts of the Indiana legislature.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."<sup>31</sup> The Constitution of 1816 further provided that "The General Assembly, at the time they lay off a new county," shall provide certain funds for a public library.<sup>32</sup> The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."<sup>33</sup> The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."<sup>34</sup> The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;<sup>35</sup> but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

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<sup>18</sup> Acts 1810, ch. 6.

<sup>19</sup> Acts 1813, ch. 23.

<sup>20</sup> Acts 1808, ch. 1.

<sup>21</sup> Acts 1815, ch. 1.

<sup>22</sup> Acts 1810, ch. 2.

<sup>23</sup> Acts 1815, ch. 12.

<sup>24</sup> Acts 1814, ch. 7.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*, ch. 9.

<sup>27</sup> Acts 1813, ch. 23.

<sup>28</sup> Acts 1813-14, ch. 10.

<sup>29</sup> Acts 1810, ch. 1.

<sup>30</sup> Const. 1816, art. 12, sec. 9.

<sup>31</sup> *Ibid.*, art. 11, sec. 12.

<sup>32</sup> *Ibid.*, art. 9, sec. 5.

<sup>33</sup> Const., art. 15, sec. 7.

<sup>34</sup> *Ibid.*, art. 4, sec. 2.

<sup>35</sup> *Ibid.*, schedule, par. 15.

The general assembly passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the boards of commissioners in the several counties which would be affected by the proposal.<sup>36</sup> No new counties have been created since the enactment of this law.

#### STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

Allen County, composed of lands previously within old Delaware County (New Purchase) and Randolph County, was created by an act of the general assembly, approved by the governor on December 17, 1823, effective April 1, 1824.<sup>37</sup> In May 1824, the county seat was established at Fort Wayne, where it has since remained.<sup>38</sup>

Indiana has had two constitutions: The Constitution of 1816 and the Constitution of 1851. The General Assembly of Indiana has enacted laws in the form of a code on five occasions: The Revised Laws of 1824, the Revised Laws of 1831, the Revised Statutes of 1838, the Revised Statutes of 1843, and the Revised Statutes of 1852. The Revised Statutes of 1852, which became effective on May 6, 1853 as an official code, repealed, with certain specified reservations, all laws except those re-enacted in the code.<sup>39</sup> The Revised Statutes of 1881 were prepared under statutory authority, but were never enacted into law by the general assembly.<sup>40</sup>

The Constitution of 1816 provided for the following officers and courts in each county: Clerk of the circuit court,<sup>41</sup> coroner,<sup>42</sup> recorder,<sup>43</sup> sheriff,<sup>44</sup> and a circuit court composed of one president judge for the circuit and two associate judges for the county.<sup>45</sup> The Constitution of 1816 further provided that the general assembly could create other offices<sup>46</sup>

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<sup>36</sup> Acts 1861; Burns 26-301 to 26-310; Baldwin 5044 to 5053.

<sup>37</sup> Acts 1817-18 (local), ch. 8. Acts 1819-20, ch. 54, sec. 2. Rev. Laws 1824, ch. 18. See also Historical Sketch in Part A-1 of this book.

<sup>38</sup> Pence and Armstrong, *op.cit.*, 226. See also Historical Sketch in Part A-1 of this book.

<sup>39</sup> Const., art. 7, sec. 20. Acts 1851-52, chs. 44, 63. 1 Rev. Stat. 1852, p. xv; ch. 92. 2 Rev. Stat. 1852, p. vii. Acts 1853, ch. 105. Jones V. Cavins, Ind. 305.

<sup>40</sup> Acts 1879, ch. 90. Acts 1881, ch. 31. Acts 1881 (Spec. Sess.), ch. 94. Acts 1883, ch. 21.

<sup>41</sup> Const. 1816, art. 5, secs. 8-10; art. 11, sec. 10.

<sup>42</sup> *Ibid.*, art. 4, sec. 25; art. 12, sec. 8.

<sup>43</sup> *Ibid.*, art. 11, sec. 10.

<sup>44</sup> *Ibid.*, art. 4, sec. 25; art. 12, sec. 8.

<sup>45</sup> *Ibid.*, art. 5, secs. 1-7.

<sup>46</sup> *Ibid.*, art. 4, sec. 8.

and courts.<sup>47</sup> All territorial laws, in force at the time of the adoption of the Constitution of 1816 and not inconsistent therewith, were continued in force until they expired or were repealed.<sup>48</sup>

The Constitution of 1851 provided for the following officers and courts in each county: Auditor,<sup>49</sup> clerk of the circuit court,<sup>50</sup> coroner,<sup>51</sup> recorder,<sup>52</sup> sheriff,<sup>53</sup> surveyor,<sup>54</sup> treasurer,<sup>55</sup> and a circuit court composed of one judge elected by the voters of the judicial circuit—the state to be divided into judicial circuits by the general assembly.<sup>56</sup> The Constitution of 1851 further provided for a prosecuting attorney for each judicial circuit,<sup>57</sup> and authorized the general assembly to create a tribunal of conciliation,<sup>58</sup> other courts,<sup>59</sup> and other county offices.<sup>60</sup> The Constitution of 1851 further provided: "The General Assembly may confer upon the boards doing county business in the several counties, powers of a local, administrative character."<sup>61</sup>

Since the organization of Allen County in 1824,<sup>62</sup> the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county: Appraiser (1841 to 1872),<sup>63</sup> auditor (1841 to date),<sup>64</sup> clerk of the circuit court (1824 to date),<sup>65</sup> coroner (1824 to date),<sup>66</sup> county agent (1824 to 1852),<sup>67</sup> county agricultural agent (1913 to date),<sup>68</sup>

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<sup>47</sup> *Ibid.*, art. 5, sec. 1.

<sup>48</sup> *Ibid.*, art. 12, sec. 4.

<sup>49</sup> Const., art. 2, sec. 9; art. 6, sec. 2.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*, art. sec. 2.

<sup>52</sup> *Ibid.*, art. 2, sec. 9; art. 6, sec. 2.

<sup>53</sup> *Ibid.*, art. 6, sec. 2.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, art. 7, secs. 1, 8-10, 12, 13.

<sup>57</sup> *Ibid.*, art. 7, secs. 11, 12.

<sup>58</sup> *Ibid.*, art. 7, sec. 19.

<sup>59</sup> *Ibid.*, art. 7, sec. 1.

<sup>60</sup> *Ibid.*, art. 6, sec. 3.

<sup>61</sup> *Ibid.*, sec. 10. See the essays entitled "Board of Commissioners" and "County Council."

<sup>62</sup> Rev. Laws 1824, ch. 18.

<sup>63</sup> See the essay entitled "County Assessor."

<sup>64</sup> See the essay entitled "Auditor."

<sup>65</sup> See the essay entitled "Clerk of the Circuit Court."

<sup>66</sup> See the essay entitled "Coroner."

<sup>67</sup> See the essay entitled "Auditor."

<sup>68</sup> See the essay entitled "County Agricultural Agent."

county assessor (1824 to 1852, 1872 to 1875, 1891 to date),<sup>69</sup> county health officer (1938 to date),<sup>70</sup> county highway supervisor (1933 to date),<sup>71</sup> county superintendent of schools (1873 to date),<sup>72</sup> health commissioner (1909 to 1938),<sup>73</sup> lister (1824 to 1841),<sup>74</sup> prosecuting attorney (1824 to date),<sup>75</sup> public health nurse (1938 to date),<sup>76</sup> purchasing agent (1921 to date),<sup>77</sup> recorder (1824 to date),<sup>78</sup> registration officer (1889 to 1896, 1933 to date),<sup>79</sup> school commissioner (1829 to 1852),<sup>80</sup> school examiner (1853 to 1873),<sup>81</sup> sheriff (1824 to date),<sup>82</sup> superintendent of highways (1913 to 1933),<sup>83</sup> surveyor (1824 to date),<sup>84</sup> tax collector (1824 to 1841),<sup>85</sup> treasurer (1824 to date),<sup>86</sup> board of charities and corrections (1899 to 1936),<sup>87</sup> board of children's guardians (1901 to 1936),<sup>88</sup> board of commissioners (April 1, 1824 to September 6, 1824, 1829 to date),<sup>89</sup> board of equalization (1824 to 1890),<sup>90</sup> board of finance (1907 to date),<sup>91</sup> board of justices (1824 to 1829),<sup>92</sup> board of library trustees (1824 to the 1850's),<sup>93</sup> board of primary elec-

<sup>69</sup> See the essay entitled "County Assessor."

<sup>70</sup> See the essay entitled "County Health Officer."

<sup>71</sup> See the essay entitled "County Highway Supervisor."

<sup>72</sup> See the essay entitled "County Superintendent of Schools."

<sup>73</sup> See the essay entitled "County Health Officer."

<sup>74</sup> See the essay entitled "County Assessor."

<sup>75</sup> See the essay entitled "Prosecuting Attorney."

<sup>76</sup> See the essay entitled "Public Health Nurses."

<sup>77</sup> See the essay entitled "Purchasing Agent."

<sup>78</sup> See the essay entitled "Recorder."

<sup>79</sup> See the essay entitled "Registration Officer." From 1889 to 1896, the clerk of the circuit court performed the functions of registration officer though not officially designated by that name.

<sup>80</sup> See the essay entitled "County School Fund Board."

<sup>81</sup> See the essay entitled "County Superintendent of Schools."

<sup>82</sup> See the essay entitled "Sheriff."

<sup>83</sup> See the essay entitled "County Highway Supervisor."

<sup>84</sup> See the essay entitled "Surveyor."

<sup>85</sup> See the essay entitled "Treasurer."

<sup>86</sup> *Ibid.*

<sup>87</sup> See the essay entitled "County Department of Public Welfare."

<sup>88</sup> *Ibid.*

<sup>89</sup> See the essay entitled "Board of Commissioners."

<sup>90</sup> See the essay entitled "County Board of Review." Before 1841, the board had no official name.

<sup>91</sup> See the essay entitled "Board of Finance."

<sup>92</sup> See the essay entitled "Board of Commissioners."

<sup>93</sup> See the essays entitled "Auditor", "Clerk of the Circuit Court", and "Recorder."

tion commissioners (1907 to date),<sup>94</sup> board of registration commissioners (1917 to 1919),<sup>95</sup> board of turnpike directors (1879 to 1913),<sup>96</sup> commission of public records (1939 to date),<sup>97</sup> county board of canvassers (1843 to date),<sup>98</sup> county board of education (1873 to date),<sup>99</sup> county board of election commissioners (1889 to date),<sup>100</sup> county board of health (1881 to 1909),<sup>101</sup> county board of review (1891 to date),<sup>102</sup> county board of tax adjustment (1932 to date),<sup>103</sup> county council (1899 to date),<sup>104</sup> county department of public welfare (1936 to date),<sup>105</sup> county school fund board (1935 to date),<sup>106</sup> precinct registration board (1911 to 1917, 1919 to 1925),<sup>107</sup> registration board (1925 to 1927),<sup>108</sup> township board of registry (1867 to 1869),<sup>109</sup> Allen Superior Court No. 2 (1927 to date),<sup>110</sup> circuit court (1824 to date),<sup>111</sup> court of common pleas (1853 to 1873),<sup>112</sup> court of conciliation (1852 to 1865),<sup>113</sup> criminal court (1867 to 1884),<sup>114</sup> probate court (1829 to 1853),<sup>115</sup> and Superior Court of Allen County (1877 to date).<sup>116</sup>

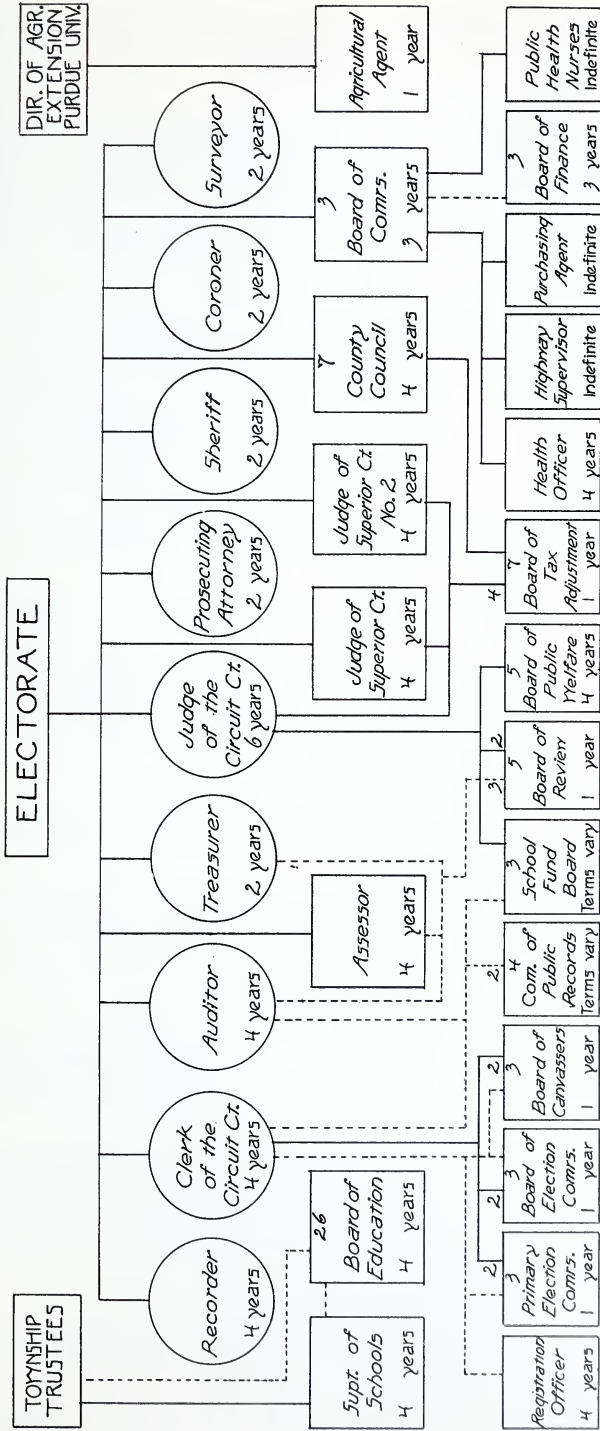
In the early days of the county, few public officials were needed. One court was needed to try civil and criminal cases and to administer estates of decedents. Criminal cases constituted a large majority of the court's business. The sheriff

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- <sup>94</sup> See the essay entitled "Board of Primary Election Commissioners."  
<sup>95</sup> See the essay entitled "Registration Officer."  
<sup>96</sup> See the essays entitled "Board of Commissioners" and County Highway Supervisor."  
<sup>97</sup> See the essay entitled "Commission of Public Records."  
<sup>98</sup> See the essay entitled "County Board of Canvassers."  
<sup>99</sup> See the essay entitled "County Board of Education."  
<sup>100</sup> See the essay entitled "County Board of Election Commissioners."  
<sup>101</sup> See the essay entitled "County Health Officer."  
<sup>102</sup> See the essay entitled "County Board of Review."  
<sup>103</sup> See the essay entitled "County Board of Tax Adjustment."  
<sup>104</sup> See the essay entitled "County Council."  
<sup>105</sup> See the essay entitled "County Department of Public Welfare."  
<sup>106</sup> See the essay entitled "County School Fund Board."  
<sup>107</sup> See the essay entitled "Registration Officer."  
<sup>108</sup> *Ibid.*  
<sup>109</sup> *Ibid.*  
<sup>110</sup> See the essay entitled "Allen Superior Court No. 2."  
<sup>111</sup> See the essay entitled "Circuit Court."  
<sup>112</sup> *Ibid.*  
<sup>113</sup> *Ibid.*  
<sup>114</sup> *Ibid.*  
<sup>115</sup> *Ibid.*  
<sup>116</sup> See the essay entitled "Superior Court of Allen County."

preserved order generally, took part in conducting elections, and executed the process of the court. The clerk of the circuit court acted as ministerial officer of the circuit court and all courts later created, served as clerk of the board doing county business (board of commissioners or board of justices), took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. A recorder was provided for by the Constitution of 1816, but his duties were very light in the beginning. The coroner's duties were similar to his duties today—investigation of the causes of death of persons where there was likelihood that a crime was involved. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed public officials other than the constitutional officers, and provided for poor relief. As a result of increased property valuations, property transfers, business activity, and transportation facilities, taxation gradually grew from a very simple form to a more complex form affecting more kinds of property. New courts were created and abolished from time to time, and the office of auditor (the financial agent of the county) was created to take over many duties of the clerk of the circuit court. Since the adoption of the Constitution of 1851, the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years, public health service and public welfare assistance have become important functions of the county and its officials.

#### GENERAL ADMINISTRATION

Since April 1, 1824, when the county was created, the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by the voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From September 6, 1824 until January 1, 1829, county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously



*Commission of Public Records, selection of two members not indicated: One, the judge of Circuit Court; one, the president of the board of commissioners.*

*Board of Tax Adjustment, selection of two members not indicated: One, the Mayor of Fort Wayne or his appointee; one, a member of the board of school commissioners of Fort Wayne.*

*Health Officer, appointment approved by state board of health.*

*Circles—constitutional officers.  
Squares—statutory officers.  
Figures—number of members and term of office.  
Solid lines—elected or appointed.  
Broken lines—ex officio.*

Chart of Allen County Governmental Organization, 1939

exercised by the board of commissioners have been vested exclusively in the county council, composed of seven members elected by the voters of the county.<sup>117</sup>

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Allen." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.<sup>118</sup> In legal contemplation, the board is the county.<sup>119</sup>

The principal functions of the board are: Control of county property; allowance of claims against the county;<sup>120</sup> provision of office rooms for county officers;<sup>121</sup> construction and repair of roads,<sup>122</sup> bridges, culverts,<sup>123</sup> and county buildings;<sup>124</sup> purchase of materials and supplies;<sup>125</sup> exercise of the power of eminent domain;<sup>126</sup> preparation of annual budget estimates;<sup>127</sup> issuance of bonds;<sup>128</sup> establishment of new townships and change of township<sup>129</sup> and precinct<sup>130</sup> boundary lines;

<sup>117</sup> Rev. Laws 1824, chs. 15, 16; ch. 18, secs. 6, 9. Acts 1826-27, ch. 13. Acts 1827-28, ch. 13. Acts 1828-29, ch. 13. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, art. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Const., art. 6, sec. 10. Snider v. State ex rel. Leap (1934), 206 Ind. 474, 190 N. E. 178.

<sup>118</sup> 1 Rev. Stat. 1852; Burns 26-636; Baldwin 5220.

<sup>119</sup> Dice v. County Board of Finance (1934), 99 Ind. App. 405, 192 N. E. 770.

<sup>120</sup> 1 Rev. Stat. 1852. Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-907; Baldwin 5256.

<sup>121</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241.

<sup>122</sup> Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin, 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>123</sup> Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

<sup>124</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

<sup>125</sup> Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

<sup>126</sup> Acts 1937; Burns, 1939 suppl., 26-610; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-210; to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 56-711; Baldwin, 1935 suppl., 8861-1.

<sup>127</sup> Acts 1899; Burns 26-516, 26-519; Baldwin 5320, 5383.

<sup>128</sup> 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

<sup>129</sup> Acts 1859; Burns 26-701; Baldwin 16055. Acts 1919; Burns 26-705; Baldwin 16059.

Commissioners' Record, A:2, 49, 96, 125, 155, 170, 184, 185, 195.

<sup>130</sup> Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7031.

provision of rooms, booths, ballot boxes, and voting machines for elections;<sup>131</sup> establishment and maintenance of libraries<sup>132</sup> and hospitals;<sup>133</sup> inspection of county jail<sup>134</sup> and poor asylum;<sup>135</sup> subscription to and preservation of newspapers printed in the county;<sup>136</sup> maintenance of standards of weights and measures;<sup>137</sup> reproduction of mutilated or decayed records;<sup>138</sup> regulation of traffic on highways;<sup>139</sup> authorization of payment of bounties;<sup>140</sup> offering rewards in case of murder or lynching;<sup>141</sup> enforcement of its orders;<sup>142</sup> appointment of highway supervisor,<sup>143</sup> health officer,<sup>144</sup> public health nurses,<sup>145</sup> and purchasing agent;<sup>146</sup> employment of a county attorney<sup>147</sup> and tax ferrets;<sup>148</sup> removal of a delinquent county treasurer after suit on his official bond has been commenced;<sup>149</sup> and appointment of successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, and treasurer.<sup>150</sup>

Before 1909, the board of commissioners audited the books and accounts of all officers handling county funds. Since 1909, such duties have been performed by the state examiner instead of the board of commissioners.<sup>151</sup>

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<sup>131</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>132</sup> Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

<sup>133</sup> Acts 1903; Burns 22-3201; Baldwin 4507.

<sup>134</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>135</sup> 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

<sup>136</sup> 1 Rev. Stat. 1852; Burns 26-626; Baldwin 5295.

<sup>137</sup> 1 Rev. Stat. 1852; Burns 69-101.

<sup>138</sup> Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

<sup>139</sup> Acts 1919; Burns 36-706; Baldwin 8899.

<sup>140</sup> 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

<sup>141</sup> Acts 1899; Burns 26-1104; Baldwin 5290.

<sup>142</sup> 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

<sup>143</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>144</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>145</sup> Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

<sup>146</sup> Acts 1921; Burns 26-1602; Baldwin 5207.

<sup>147</sup> Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

<sup>148</sup> Acts 1905; Burns 61-2830; Baldwin, 1935 suppl., 15696-1.

<sup>149</sup> 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>150</sup> 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>151</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.<sup>152</sup> Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.<sup>153</sup> Any two members constitute a quorum to do business.<sup>154</sup> The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.<sup>155</sup> All meetings of the board are open to the public.<sup>156</sup> The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.<sup>157</sup> Whenever, in the trial of any cause, two or more members of the board are disqualified, the circuit judge appoints special commissioners to act in their places.<sup>158</sup>

Though appeals may be taken to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2 to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.<sup>159</sup> Appeals are authorized in proceedings concerning claims against the county,<sup>160</sup> removal of county seat,<sup>161</sup> establishment or vacation of public ferry,<sup>162</sup> and highway matters.<sup>163</sup>

The auditor, as clerk of the board, attends its meetings, keeps a record of the proceedings, and preserves in his office all the books and papers touching the business of the county.<sup>164</sup>

Acts 1897; Burns 26 626; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>152</sup> Acts 1899; Burns 26-550; Baldwin 5221.

<sup>153</sup> Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

<sup>154</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>155</sup> 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>156</sup> 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

<sup>157</sup> 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

<sup>158</sup> Acts 1913; Burns 26 614 to 26 616; Baldwin 5229 to 5231.

<sup>159</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1297. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. 1 Rev. Stat. 1852; Burns 26-901. State ex rel. Starry v. Board of County Comrs., 136 Ind. 207, 35 N. E. 1100.

<sup>160</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>161</sup> Acts 1885 (Spec. Sess.); Burns 26 410.

<sup>162</sup> 1 Rev. Stat. 1852; Burns 26-2615; Baldwin 7705.

<sup>163</sup> Acts 1905; Burns 36-1501; Baldwin 8858.

<sup>164</sup> 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.<sup>165</sup> Before 1899, the board of commissioners performed the duties now performed by the council.<sup>166</sup>

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,<sup>167</sup> authorizes the borrowing of money for the county,<sup>168</sup> authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,<sup>169</sup> and fixes the amounts of salaries of deputy officers and other assistants of county officers.<sup>170</sup> In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.<sup>171</sup> Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment.<sup>172</sup> In mandamus proceedings, the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.<sup>173</sup> The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than five percent per annum can be issued without the approval of said board.<sup>174</sup>

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<sup>165</sup> Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 178.

<sup>166</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22.

<sup>167</sup> Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>168</sup> Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

<sup>169</sup> Acts 1899; Burns 26-534; Baldwin 5399. Acts 1903; Burns 22-3201; Baldwin 4507.

<sup>170</sup> Acts 1933, 1935; Burns, 1939 suppl., 49-1002; Baldwin, 1935 suppl., 7532.

<sup>171</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>172</sup> Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>173</sup> Acts 1899; Burns 26-528; Baldwin 5392. *State ex rel. Simpson v. Meeker* (1914), 182 Ind. 240, 105 N. E. 906; *State ex rel. Test v. Steinwedel* (1932), 203 Ind. 457, 180 N. E. 865; *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>174</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. *Citizens Bank v. Burnettsville* (1932), 98 Ind. App. 92, 179 N. E. 724.

The county council and the board of commissioners, acting together, perform the following duties: Approving the acceptance of lands given or devised to the county for purposes of a public forest;<sup>175</sup> holding hearings on petitions for the condemnation of school buildings as unfit for use, and deciding for or against such condemnation, subject to appeal to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2;<sup>176</sup> determining, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;<sup>177</sup> rebuilding courthouses and jails destroyed by fire or windstorm, and issuing bonds to defray the expense of the same.<sup>178</sup>

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, warrant, claim, or demand against the county.<sup>179</sup>

The county council holds a regular annual meeting on the first Tuesday after the first Monday of September of each year. Special meetings may be called by the auditor or a majority of the members of the council.<sup>180</sup> The sessions are open to the public and may continue until all business is completed.<sup>181</sup> A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.<sup>182</sup> A greater vote is required in order to expel a member (two-thirds),<sup>183</sup> adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),<sup>184</sup> adopt appropriations at a special meeting (two-thirds),<sup>185</sup> and

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<sup>175</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>176</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>177</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

<sup>178</sup> Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>179</sup> Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

<sup>180</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>181</sup> Acts 1899; Burns 26-508; Baldwin 5372.

<sup>182</sup> Acts 1899; Burns 26-511; Baldwin 5375.

<sup>183</sup> Acts 1899; Burns 26-512; Baldwin 5376.

<sup>184</sup> Acts 1899; Burns 26-520; Baldwin 5384.

<sup>185</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

to levy taxes for the repair, maintenance, or preservation of county highways (unanimous).<sup>186</sup> The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.<sup>187</sup>

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.<sup>188</sup> He keeps separate accounts for each specific item of appropriation made by the council.<sup>189</sup>

#### CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.<sup>190</sup> The board cannot bind the county by any contract which is beyond the scope of its powers.<sup>191</sup> While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by parol contracts.<sup>192</sup>

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the lowest responsible bidder, or, in some instances, the lowest and

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<sup>186</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

<sup>187</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>188</sup> Acts 1899; Burns 26-509; Baldwin 5373. State ex rel. Van Der Veer v. Butcher (1933), 205 Ind. 117, 185 N. E. 908.

<sup>189</sup> Acts 1899; Burns 26-523; Baldwin 5387.

<sup>190</sup> Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

<sup>191</sup> Hight v. Board of County Comrs. (1879), 68 Ind. 575, 577. Driftwood Valley Turnpike Co. v. Board of County Comrs. (1880), 72 Ind. 226; Board of County Comrs. v. Bradford (1880), 73 Ind. 455.

<sup>192</sup> McCabe v. Board of County Comrs. (1874), 46 Ind. 380; Board of County Comrs. v. Ritter (1883), 90 Ind. 362.

best bidder.<sup>193</sup> The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and re-advertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.<sup>194</sup>

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.<sup>195</sup> A contract employing an attorney is an exception to this rule.<sup>196</sup>

#### ACTIONS

Ordinarily, an action for or against the county is brought by or against the board of commissioners.<sup>197</sup> An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.<sup>198</sup> If the allowance of a claim was illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.<sup>199</sup> If money is illegally paid out of the county treasury, suit to recover same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is

<sup>193</sup> The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.* (1912), 178 Ind. 221, 98 N. E. 33; *Eigenmann v. Board of County Comrs.* (1913), 53 Ind. App. 1, 101 N. E. 38.

<sup>194</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

<sup>195</sup> *Board of County Comrs. v. Shields* (1891), 130 Ind. 6, 29 N. E. 385; *Jessup v. Hinchman* (1922), 77 Ind. App. 460, 133 N. E. 853.

<sup>196</sup> *Board of County Comrs. v. Taylor* (1890), 123 Ind. 148, 23 N. E. 752.

<sup>197</sup> 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

<sup>198</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. *Bass Foundry & Mach. Works v. Board of County Comrs.* (1888), 115 Ind. 234, 17 N. E. 593; *Board of County Comrs. v. Tichenor* (1891), 129 Ind. 562, 29 N. E. 32; *Mueller v. Board of County Comrs.* (1920), 73 Ind. App. 196, 127 N. E. 15.

<sup>199</sup> Acts 1897; Burns 26-811; Baldwin 5262. *Sudbury v. Board of County Comrs.* (1901), 157 Ind. 446, 62 N. E. 45.

not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.<sup>200</sup>

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.<sup>201</sup> The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.<sup>202</sup>

The treasurer sues in his name, as treasurer, to collect property taxes.<sup>203</sup> Suit to collect inheritance taxes is brought in the name of the county.<sup>204</sup> After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners to recover taxes illegally assessed or collected.<sup>205</sup>

Land needed by the county for public buildings,<sup>206</sup> highways, bridges, culverts,<sup>207</sup> drainage, sewers,<sup>208</sup> or airports<sup>209</sup> may be acquired by the county under its power of eminent domain, on payment of the value fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.<sup>210</sup> For example, mandamus lies to compel: The auditor to draw warrants on the county treasury;<sup>211</sup> the board of commissioners to take action on claims that have been prop-

<sup>200</sup> Acts 1899; Burns 26-545; Baldwin 5410.

<sup>201</sup> Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.* (1879), 66 Ind. 386; *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

<sup>202</sup> 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanersdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

<sup>203</sup> Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

<sup>204</sup> Acts 1931; Burns 6-2415; Baldwin 15953.

<sup>205</sup> Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.* (1932), 204 Ind. 87, 183 N. E. 404; *Board of County Comrs. v. Millikan* (1934), 207 Ind. 142, 190 N. E. 185.

<sup>206</sup> Acts 1899; Burns 26-2101; Baldwin 5109.

<sup>207</sup> Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

<sup>208</sup> Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

<sup>209</sup> Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

<sup>210</sup> Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

<sup>211</sup> *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

erly presented,<sup>212</sup> to approve official bonds,<sup>213</sup> and to repair or rebuild bridges;<sup>214</sup> and the county council to make appropriations.<sup>215</sup>

In some instances, a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;<sup>216</sup> doing of illegal acts that would increase taxation;<sup>217</sup> payment of illegal claims;<sup>218</sup> and making an illegal contract.<sup>219</sup>

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.<sup>220</sup>

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.<sup>221</sup> No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings against the county council, board of commissioners, and auditor, the county council may be compelled to make such appropriation.<sup>222</sup>

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,<sup>223</sup> including suits to collect taxes<sup>224</sup>

<sup>212</sup> Board of County Comrs. v. State ex rel. Reed (1913), 179 Ind. 644, 102 N. E. 97.

<sup>213</sup> State ex rel. Taylor v. Board of County Comrs. (1830), 124 Ind. 554, 25 N. E. 10.

<sup>214</sup> State ex rel. Roundtree v. Board of County Comrs. (1891), 80 Ind. 478.

<sup>215</sup> Shelby County Council v. State ex rel. School of Shelbyville (1900), 155 Ind. 216, 57 N. E. 712.

<sup>216</sup> Hobbs v. Board of County Comrs. (1885), 103 Ind. 575, 3 N. E. 263.

<sup>217</sup> State ex rel. Davis v. Board of County Comrs. (1905), 165 Ind. 262, 74 N. E. 1091.

<sup>218</sup> Warren Agri. Joint Stock Co. v. Barr (1876), 55 Ind. 30. But see Bentley v. Board of County Comrs. (1936), 102 Ind. App. 533, 260 N. E. 499.

<sup>219</sup> Farris v. Jones (1887), 112 Ind. 498, 14 N. E. 484.

<sup>220</sup> State ex rel. Board of County Comrs. v. Board of County Comrs. (1908), 170 Ind. 595, 608, 85 N. E. 513.

<sup>221</sup> Acts 1899; Burns 26-527; Baldwin 5291. Board of County Comrs. v. Pike Civil Twp. (1907), 168 Ind. 535, 81 N. E. 489.

<sup>222</sup> Acts 1899; Burns 26-528; Baldwin 5322.

Formerly the public property of the county was subject to execution to satisfy such judgment. 1 Rev. Stat. 1872; Burns 26-603; Baldwin 5253.

<sup>223</sup> 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5400.

<sup>224</sup> Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 2811-4. Acts 1919; Burns 64-719, 64-1519; Baldwin 15633, 15773. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16669.

or to recover tax penalties and forfeitures<sup>225</sup> and suits against officers or on their bonds.<sup>226</sup> The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.<sup>227</sup>

## RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.<sup>228</sup> To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,<sup>229</sup> and the intangible tax thereon (if any) must be paid.<sup>230</sup> For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No such deed or partition can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>231</sup>

The recorder and the clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are set out in the essays on their offices in Part B of this book.

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<sup>225</sup> Acts 1919; Burns 64-608, 64-1319, 64-2208; Baldwin 15576, 15723, 15815.

<sup>226</sup> Acts 1917; Burns 60-227; Baldwin 13878.

<sup>227</sup> Acts 1933; Burns 49-2695; Baldwin 7550.

<sup>228</sup> Acts 1935; Burns, 1939 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 15671. Acts 1897; Burns 56-120. Acts 1877; Burns 56-716; Baldwin 998.

<sup>229</sup> Rev. Laws 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51 507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

<sup>230</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>231</sup> 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the Secretary of State of the State of Indiana),<sup>232</sup> but has no system of registering titles to other personal property.

#### JUDICIARY

Allen County has three courts—Allen Circuit Court, Superior Court of Allen County, and Allen Superior Court No. 2—each consisting of one judge elected by the voters of the county. Under the requirements of the Constitution of 1816 and the Constitution of 1851, Allen Circuit Court has existed in the county continuously since the organization of the county in 1824. The Superior Court of Allen County and Allen Superior Court No. 2 have existed in the county continuously since 1877 and 1927, respectively.<sup>233</sup> The following courts previously existed in Allen County, but were abolished: Probate court (1829 to 1853),<sup>234</sup> common pleas court (1853 to 1873),<sup>235</sup> court of conciliation (1853 to 1865),<sup>236</sup> and criminal circuit court (1867 to 1884).<sup>237</sup>

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior courts have concurrent original jurisdiction of all civil cases

<sup>232</sup> Acts 1921, 1931, 1935, 1939; Burns, 1939 suppl., 47-301; Baldwin, 1939 suppl., 11128.

<sup>233</sup> Const. 1816, art. 5, secs. 1, 3-7. Const., art. 7, secs. 1, 8, 9. Rev. Laws 1824, ch. 18. Acts 1875, ch. 35, sec. 1. Acts 1877, ch. 31. Acts 1881 (Spec. Sess.), ch. 24. Acts 1927, ch. 63.

<sup>234</sup> Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-13.

The probate court was abolished in 1853 and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

<sup>235</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873 and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>236</sup> Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

<sup>237</sup> Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1869 (Spec. Sess.), ch. 21, sec. 6.

The criminal court was abolished in 1884 and its jurisdiction was transferred to the circuit court. Acts 1883, ch. 29 (effective October 31, 1884).

at law and in equity, except the matters mentioned in the following paragraph.<sup>238</sup>

Allen Superior Court No. 2 has exclusive original jurisdiction of lunacy proceedings, trusts, guardianships, surviving partnerships, probate and construction of wills, administration of estates of decedents and insolvents, and all other probate matters.<sup>239</sup> The circuit court has exclusive original jurisdiction in juvenile matters, and is known as the "Juvenile Court" when exercising such jurisdiction.<sup>240</sup>

The circuit court and superior courts have concurrent appellate jurisdiction to review decisions—the superior courts being confined to civil actions and proceedings—<sup>241</sup> of justices of the peace,<sup>242</sup> city courts,<sup>243</sup> board of commissioners,<sup>244</sup> board of review fixing value of property for taxation,<sup>245</sup> taxing authorities determining that property is taxable,<sup>246</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions),<sup>247</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>248</sup>

The circuit court and superior courts have concurrent original jurisdiction of naturalization proceedings under the federal laws,<sup>249</sup> but are prevented from exercising such jurisdiction by the failure of the United States Department of Labor to furnish the necessary printed forms.

<sup>238</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin

1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>239</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>240</sup> *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

<sup>241</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin

1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>242</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>243</sup> Acts 1905; Burns 4-2415; Baldwin 2360. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>244</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8853. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Circuit Court*, --- Ind. ---, 15 N. E. (2d) 624.

<sup>245</sup> Acts 1927; Burns 61-1020; Baldwin 15686.

<sup>246</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>247</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>248</sup> *Hamilton v. Fort Wayne*, 73 Ind. 1.

<sup>249</sup> Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1806, 1911, 1913; *U. S. C.*, title 8, sec. 357.

In each township in Allen County there is a justice of the peace, elected by the voters of the township, having very minor civil and criminal jurisdiction, and having jurisdiction as a committing magistrate in criminal cases. His civil jurisdiction is limited to his township, but his criminal jurisdiction is co-extensive with his county.<sup>250</sup> Each justice of the peace must pay to the county treasurer all fines which he collects.<sup>251</sup>

Arranged according to subject matter, the courts existing in Allen County from 1824 to date have had original jurisdiction as follows: *Civil actions at law*: (1) circuit court (1824 to date)<sup>252</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>253</sup> (2) probate court (1838 to 1853)<sup>254</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>255</sup> (3) common pleas court (1853 to 1873)<sup>256</sup> -reviewable by Allen

<sup>250</sup> Const. 1816, art. 5, sec. 12. Const., art. 7, sec. 14. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852; Burns 5-201; Baldwin 1857. Acts 1905; Burns 9-715; Baldwin 2084.

<sup>251</sup> Acts 1881; Burns 5-1803; Baldwin 1874.

<sup>252</sup> Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>253</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>254</sup> Dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5, 6. Rev. Stat. 1843, ch. 39, secs. 1, 6-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1832 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

<sup>255</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

<sup>256</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 5, 7, 11, 12, 23.

The common pleas court had no jurisdiction of civil actions at law involving title to real estate, or to recover on bonds of state or county officers, or to recover damages for slander, libel, or breach of marriage contract, or to recover \$1,000 or more, or to recover \$50 or less. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

Circuit Court or Supreme Court of Indiana;<sup>257</sup> (4) Superior Court of Allen County (1877 to date)<sup>258</sup> --reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>259</sup> (5) Allen Superior Court No. 2 (1927 to date)<sup>260</sup> --reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>261</sup> *criminal cases*: (1) circuit court (1824 to 1867, 1884 to date)<sup>262</sup> --reviewable by Supreme Court of Indiana;<sup>263</sup> (2) common pleas court (1858 to 1878)<sup>264</sup> --reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>265</sup> (3) criminal circuit court (1867 to 1884)<sup>266</sup> --reviewable by Supreme Court of Indiana;<sup>267</sup> *chancery cases*: (1) circuit court (1824 to date)<sup>268</sup> --reviewable

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<sup>257</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

<sup>258</sup> Acts 1877; Burns 4-510; Baldwin 1450-10.

<sup>259</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

<sup>260</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>261</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1927; Burns 4-620; Baldwin 1470.

<sup>262</sup> Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, secs. 5-7. Rev. Laws 1824, ch. 24, secs. 4-6. Rev. Laws 1831, ch. 22, secs. 3-5. Rev. Stat. 1838, ch. 23 (first act), secs. 3-5. Rev. Stat. 1843, ch. 38, secs. 9, 12, 13. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1865 (Spec. Sess.), ch. 45, sec. 1. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1869 (Spec. Sess.), ch. 21, sec. 6. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

The criminal court was abolished in 1884, and its jurisdiction was transferred to the circuit court. Acts 1883, ch. 29 (effective October 31, 1884).

<sup>263</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 148-163. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>264</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 14-19.

The common pleas court had no original jurisdiction of felonies punishable by death. *Ibid.*

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>265</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 3, ch. 1, secs. 148-163.

<sup>266</sup> Acts 1865 (Spec. Sess.), ch. 45, sec. 1. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1869 (Spec. Sess.), ch. 21, sec. 6.

The criminal circuit court was abolished in 1884, and its jurisdiction was transferred to the circuit court. Acts 1883, ch. 29 (effective October 31, 1884).

<sup>267</sup> 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 148-163. Acts 1867, ch. 26, sec. 1.

<sup>268</sup> Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2; ch. 4. Acts 1817-18 (general), ch. 2, sec. 5; ch. 3. Rev. Laws 1824, ch. 24, secs.

by Supreme Court of Indiana or Appellate Court of Indiana;<sup>269</sup> (2) probate court (1838 to 1853)<sup>270</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>271</sup> (3) common pleas court (1853 to 1873)<sup>272</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>273</sup> (4) Superior Court of Allen County (1877 to date)<sup>274</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>275</sup> (5) Allen Superior Court No. 2 (1927 to date)<sup>276</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>277</sup> *probate matters, settlement of decedents' estates, and guardianships*: (1) circuit court (1824 to 1829, 1873 to 1927)<sup>278</sup> - reviewable by Supreme Court of

4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), secs. 3, 12. Rev. Stat. 1843, ch. 38, secs. 8, 10-12; ch. 46, secs. 1-3. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>269</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>270</sup> Chancery suits in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5. Rev. Stat. 1843, ch. 39, secs. 1, 6; ch. 46, secs. 1-3.

<sup>271</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-26.

<sup>272</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 7, 11, 21.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>273</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20-22; pt. 2, ch. 1, sec. 550.

<sup>274</sup> Acts 1877; Burns 4-510; Baldwin 1450-10.

<sup>275</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

<sup>276</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>277</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1927; Burns 4-620; Baldwin 1470.

<sup>278</sup> Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, sec. 5; ch. 13. Rev. Laws 1824, ch. 24, secs. 4, 5; ch. 79. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 22, sec. 3; ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 38, secs. 6-13; ch. 39, secs. 1, 6-8. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

The probate court was abolished in 1853, and its jurisdiction was transferred to the com-

Indiana or Appellate Court of Indiana;<sup>279</sup> (2) probate court (1829 to 1853)<sup>280</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>281</sup> (3) common pleas court (1853 to 1873)<sup>282</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>283</sup> (4) Allen Superior Court No. 2 (1927 to date)<sup>284</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>285</sup> *juvenile matters*: (1) circuit court (1867 to date)<sup>286</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>287</sup> (2) common pleas court (1867 to 1873)<sup>288</sup>

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mon pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt.1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>279</sup> Acts 1816-17, ch. 1, secs. 7, 13, 17. Acts 1817-18 (general), ch. 1, secs. 7, 13; ch. 13, sec. 11. Rev. Laws 1824, ch. 25, sec. 7; ch. 79, sec. 13. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>280</sup> Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1, 5-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

<sup>281</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

<sup>282</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>283</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550; ch. 10, secs. 189-193; ch. 11, secs. 43-46.

<sup>284</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>285</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1927; Burns 4-620; Baldwin 1470.

<sup>286</sup> Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

<sup>287</sup> 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>288</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 1. Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

-reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>289</sup> (3) criminal circuit court (1867 to 1884)<sup>290</sup> -reviewable by Supreme Court of Indiana;<sup>291</sup> *conciliation: court of conciliation* (1853 to 1865)<sup>292</sup> -judgment not appealable;<sup>293</sup> *naturalization proceedings: (1) circuit court* (1824 to date)<sup>294</sup> -reviewable by Supreme Court of Indiana or Appellate Court of Indiana;<sup>295</sup> (2) common pleas court (1853 to 1873)<sup>296</sup> -reviewable by Allen Circuit Court or Supreme Court of Indiana;<sup>297</sup> (3) Superior Court of Allen County (1906 to date)<sup>298</sup> -review-

<sup>289</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 3, ch. 1, secs. 148-163.

<sup>290</sup> Acts 1865 (Spec. Sess.), ch. 45, sec. 1. Acts 1867, ch. 16, sec. 1; ch. 26; ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 21, sec. 6; ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58.

The criminal circuit court was abolished in 1884, and its jurisdiction was transferred to the circuit court. Acts 1883, ch. 29 (effective October 31, 1884).

<sup>291</sup> 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 148-163. Acts 1867, ch. 26, sec. 1.

<sup>292</sup> Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

<sup>293</sup> Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 7, 12-14.

<sup>294</sup> Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Because of the failure of the U. S. Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

<sup>295</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>296</sup> Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 377. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 5, 7, 11, 12, 21, 23.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>297</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20-22; pt. 2, ch. 1, sec. 550.

<sup>298</sup> Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. Acts 1877; Burns 4-510; Baldwin 1450-10.

Because of the failure of the U. S. Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

able by Supreme Court of Indiana or Appellate Court of Indiana;<sup>299</sup> (4) Allen Superior Court No. 2 (1927 to date)<sup>300</sup>—reviewable by Supreme Court of Indiana or Appellate Court of Indiana.<sup>301</sup>

As an officer of the circuit court, the clerk performs numerous duties. He, in person or by deputy, attends the circuit court and performs the customary duties of clerk at trials;<sup>302</sup> files pleadings and papers and endorses thereon the time of such filing;<sup>303</sup> issues summonses,<sup>304</sup> notices for service by publication,<sup>305</sup> attachment writs,<sup>306</sup> garnishment writs,<sup>307</sup> executions,<sup>308</sup> and witness subpoenas;<sup>309</sup> administers oaths;<sup>310</sup> takes depositions of witnesses;<sup>311</sup> keeps court dockets,<sup>312</sup> receivership records,<sup>313</sup> and records of redemption from judicial sales;<sup>314</sup> records orders, judgments,<sup>315</sup> indict-

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<sup>299</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

<sup>300</sup> Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

Because of the failure of the U. S. Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

<sup>301</sup> Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1927; Burns 4-620; Baldwin 1470.

<sup>302</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>303</sup> Acts 1816-17, ch. 4, sec. 28. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>304</sup> Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

<sup>305</sup> Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1939 suppl., 2-807; Baldwin, 1935 suppl., 88.

<sup>306</sup> Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

<sup>307</sup> Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

<sup>308</sup> Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524.

<sup>309</sup> Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

<sup>310</sup> Acts 1818-19, ch. 17, sec. 1. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

<sup>311</sup> Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

<sup>312</sup> Acts 1814, ch. 13, sec. 5. Acts 1816-17, ch. 4, secs. 11, 12, 28, 32. Rev. Laws 1824, ch. 74, sec. 15. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358, p. 119. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

<sup>313</sup> Acts 1911; Burns 3-2607; Baldwin 1147.

<sup>314</sup> Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

<sup>315</sup> Acts 1814, ch. 13, sec. 4. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1.

ments,<sup>316</sup> and notices of lis pendens;<sup>317</sup> draws up a record of the proceedings of the court daily;<sup>318</sup> enters in a final record book a complete record of causes finally determined;<sup>319</sup> prepares and certifies transcripts of proceedings for change of venue from the county<sup>320</sup> or for appeal to a higher court;<sup>321</sup> and receives payments for all judgments of record in his office.<sup>322</sup> He is ex officio clerk of the Superior Court of Allen County and Allen Superior Court No. 2; and performs therein duties similar to his duties in the circuit court.<sup>323</sup> In addition, for Allen Superior Court No. 2, he issues letters testamentary<sup>324</sup> and letters of administration;<sup>325</sup> keeps inheritance-tax records,<sup>326</sup> probate records,<sup>327</sup> and guardianship records;<sup>328</sup> and records probated wills.<sup>329</sup> From 1829 until

Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>316</sup> 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68, p. 369 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 373). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>317</sup> Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1.

<sup>318</sup> Acts 1814, ch. 20, sec. 11. Rev. Laws 1824, ch. 74, sec. 54. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413.

<sup>319</sup> Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>320</sup> Acts 1813-14, ch. 37, secs. 1, 2. Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

<sup>321</sup> Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 475. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

<sup>322</sup> Acts 1875; Burns 49-2719; Baldwin 1438.

<sup>323</sup> Acts 1877; Burns 4-503, 4-504; Baldwin 1450-3, 1450-4. Acts 1927; Burns 4-611, 4-612; Baldwin 1461, 1462.

<sup>324</sup> Acts 1881 (Spec. Sess.); Burns 6-201; Baldwin 3025.

<sup>325</sup> Acts 1881 (Spec. Sess.), 1901; Burns 6-301; Baldwin 3030.

<sup>326</sup> Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

<sup>327</sup> Acts 1817-18, ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1, p. 34. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

<sup>328</sup> Acts 1846-47 (general), ch. 54, sec. 1. Acts 1889; Burns 8-137; Baldwin 3424.

<sup>329</sup> Domestic probate. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385. Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

1853, he was ex officio clerk of the probate court of the county (abolished in 1853);<sup>330</sup> from 1853 until 1873, he was ex officio clerk of the common pleas court of the county (abolished in 1873);<sup>331</sup> and from 1868 to 1877, he was ex officio clerk of the criminal court of the county (abolished in 1877).<sup>332</sup>

The sheriff executes the process of the circuit court and superior courts and preserves order therein.<sup>333</sup> Constables perform similar duties for the justices of the peace.<sup>334</sup>

The prosecuting attorney acts as attorney for the state in criminal cases and as attorney for the county and state in civil cases.<sup>335</sup>

Formerly a jury was used in coroner's inquests, but such juries were abolished in 1879.<sup>336</sup> Under the present system, coroners act in a nonjudicial capacity when holding inquests.<sup>337</sup>

#### LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdictions,<sup>338</sup> and that all criminal prosecutions shall be carried on in the name and by the authority of the state.<sup>339</sup>

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,<sup>340</sup> the sheriff,<sup>341</sup> or the coroner,<sup>342</sup> co-operating with one another and with state

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<sup>330</sup> Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

<sup>331</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>332</sup> Acts 1869 (Spec. Sess.), ch. 23, sec. 1; ch. 25, sec. 1. Acts 1877, ch. 34, secs. 25, 26.

<sup>333</sup> Acts 1877; Burns 4-503, 4-504; Baldwin 1450-3, 1450-4. Acts 1927; Burns 4-611, 4-612; Baldwin 1461, 1462. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495.

<sup>334</sup> 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

<sup>335</sup> 2 Rev. Stat. 1852; Burns 49-2501, 49-2504; Baldwin 5456, 5460.

<sup>336</sup> Acts 1817-18 (general), ch. 20. Acts 1879 (Spec. Sess.); Burns 49-2907; Baldwin 5441.

<sup>337</sup> *Stults v. Board of County Comrs.* (1807), 168 Ind. 539, 81 N. E. 471.

<sup>338</sup> Const. 1816, art. 5, sec. 5. Const., art. 7, sec. 15.

<sup>339</sup> Const. 1816, art. 5, sec. 11. Const., art. 7, sec. 18.

<sup>340</sup> 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

<sup>341</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>342</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

and federal bureaus of law enforcement;<sup>343</sup> and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.<sup>344</sup>

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.<sup>345</sup> The grand jury consists of six members,<sup>346</sup> at least five of whom must concur in the finding of an indictment. When an indictment is found, it is endorsed by the foreman of the grand jury, "A true bill", and is also signed by the prosecuting attorney.<sup>347</sup>

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.<sup>348</sup> He may also prosecute on affidavit all public offenses other than treason and murder.<sup>349</sup>

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both officers having existed in Allen County since its organization.<sup>350</sup> As law enforcement officers, they have identical powers and duties;<sup>351</sup> in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, and based on indictments returned by the grand jury or affidavits filed with the court.<sup>352</sup> Writs of arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.<sup>353</sup> Arrest without warrant can be made for a felony, where the arresting officer has reliable

<sup>343</sup> Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

<sup>344</sup> Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

<sup>345</sup> Acts 1905; Burns 9-826; Baldwin 2122.

<sup>346</sup> Acts 1905; Burns 9-801; Baldwin 2097.

<sup>347</sup> Acts 1905; Burns 9-901; Baldwin 2123.

<sup>348</sup> 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

<sup>349</sup> Acts 1905, 1927; Burns 9-908; Baldwin 2131.

<sup>350</sup> Both were established by the Constitution of 1816, art. 4, sec. 25, and re-established by the present constitution, art. 6, sec. 2.

<sup>351</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>352</sup> Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

<sup>353</sup> 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.<sup>354</sup> A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.<sup>355</sup>

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.<sup>356</sup> The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.<sup>357</sup> No person can be put in jeopardy twice for the same offense. No person, in a criminal prosecution, can be compelled to testify against himself.<sup>358</sup> A person arrested or confined in jail must not be treated with unnecessary rigor.<sup>359</sup> Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.<sup>360</sup> Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.<sup>361</sup> The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.<sup>362</sup> In all criminal cases, the jury has the right to determine both the law and the facts.<sup>363</sup> The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety

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<sup>354</sup> *Doering v. State* (1874), 49 Ind. 56, 19 Am. Rep. 669; *Hart v. State* (1924), 195 Ind. 384, 145 N. E. 449.

<sup>355</sup> Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

<sup>356</sup> Const., art. 1, sec. 12.

<sup>357</sup> *Ibid.*, sec. 13.

<sup>358</sup> *Ibid.*, sec. 14.

<sup>359</sup> *Ibid.*, sec. 15.

<sup>360</sup> *Ibid.*, sec. 16.

<sup>361</sup> *Ibid.*, sec. 17.

<sup>362</sup> *Ibid.*, sec. 18.

<sup>363</sup> *Ibid.*, sec. 19.

demands such suspension.<sup>364</sup> No conviction can work corruption of blood or forfeiture of estate.<sup>365</sup> The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.<sup>366</sup> The county jail is maintained by the county,<sup>367</sup> the sheriff being responsible for its management.<sup>368</sup> Inspection or investigation is made by the grand jury at the beginning of each regular session,<sup>369</sup> and by the board of commissioners every three months.<sup>370</sup>

## FINANCE

### APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.<sup>371</sup> Before 1899, the board of commissioners performed the duties now performed by the county council.<sup>372</sup>

No money can be drawn from the county treasury not in pursuance of appropriation therefor,<sup>373</sup> except in the following instances: (1) Money belonging to the state and commanded by law to be paid into the state treasury; (2) money belonging to any school fund; (3) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (4) money, due to any person, which has been paid into the county treasury pursuant to public-improvement assessments on persons or property of the county in territory less than the whole county; (5) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (6) taxes erroneously paid; (7) funds received from

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<sup>364</sup> *Ibid.*, sec. 27.

<sup>365</sup> *Ibid.*, sec. 30.

<sup>366</sup> *Ibid.*, art. 5, sec. 17.

<sup>367</sup> 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

<sup>368</sup> 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

<sup>369</sup> 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

<sup>370</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>371</sup> Acts 1899; Burns 26-515; Baldwin 5379.

<sup>372</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

<sup>373</sup> Acts 1899; Burns 26-515; Baldwin 5379.

the state or federal governments for welfare assistance or public work projects;<sup>874</sup> (8) salaries fixed by law.<sup>875</sup>

Before the Thursday following the first Monday in August each year, the various officials of the county (including courts, board of commissioners, and township assessors) submit to the auditor estimates of expenditures and probable revenue to be received from the state for the ensuing calendar year. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least two separate days. This appropriation is called the annual county budget, and the estimates of expenditures are called budget estimates.<sup>876</sup>

If emergency arising after the adjournment of the annual meeting requires appropriations in addition to those originally included in the annual appropriation, additional appropriations may be made by ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must

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<sup>874</sup> Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>875</sup> *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>876</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

The statutory provision requiring an ordinance for an appropriation to be read on two separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron* (1929), 97 Ind. App. 1, 165 N. E. 265.

be read on two separate days before passage.<sup>377</sup> Such additional appropriations must be approved by the state board of tax commissioners.<sup>378</sup>

It is unlawful for the county council to make any appropriation of money, or order to pay money, unless at the time the money to pay the same is provided for or is in the treasury.<sup>379</sup>

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of injunction which was later dissolved.<sup>380</sup> It is unlawful to overdraw the amount of an item of appropriation or to use the funds of any item for an unauthorized purpose.<sup>381</sup>

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.<sup>382</sup>

#### TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the con-

<sup>377</sup> Acts 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. State ex rel. Kautz v. Board of County Comrs. (1933), 204 Ind. 484, 184 N. E. 780.

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1939 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning poor relief and welfare services. Acts 1935; Burns, 1939 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100.

<sup>378</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>379</sup> Acts 1879; Burns 26-1025, 26-1027; Baldwin 5348, 5352. The words "board of commissioners" in the act are construed to mean county council. Acts 1899; Burns 26-515; Baldwin 5379.

<sup>380</sup> Acts 1999, 1903, 1905; Burns 26-524; Baldwin 5388.

<sup>381</sup> Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>382</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor (1909), 171 Ind. 634, 87 N. E. 1.

stitution.<sup>383</sup> The constitution provides that "The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."<sup>384</sup> This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.<sup>385</sup> Exemptions are discussed hereinafter.

In Indiana, there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes; Licensing."

In each township having a population not exceeding 5,000 (all townships except Adams, Washington, and Wayne), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>386</sup>

A poll tax is assessed on every male inhabitant of this state between the ages of 21 and 50 years.<sup>387</sup> Poll-tax exemptions are allowed to the following persons: Volunteer firemen,<sup>388</sup> former soldiers and sailors who receive service-

<sup>383</sup> State ex rel. Goodman v. Halter (1897), 149 Ind. 292, 47 N. E. 665; Dunn v. Indianapolis (1935), 208 Ind. 630, 196 N. E. 528; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372.

<sup>384</sup> Const., art. 10, sec. 1.

<sup>385</sup> State Bd. of Tax Comrs. v. Jackson (1931), 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372; Davis v. Sexton (1936), 210 Ind. 138, 200 N. E. 233.

<sup>386</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

<sup>387</sup> Acts 1919; Burns 64-102; Baldwin 15515.

<sup>388</sup> 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 19, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 46 6161; Baldwin, 1939 suppl., 12653-1.

connected disability compensation,<sup>389</sup> and persons exempted by the county commissioners because of inability to pay.<sup>390</sup> The auditor certifies to the city officials the number of taxable polls therein.<sup>391</sup> Poll tax is collected by the county treasurer. A poll-tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor-vehicle operator's or chauffeur's license, a motor-vehicle license, or a certificate of title for a motor vehicle.<sup>392</sup>

The property-tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the state board of tax commissioners. The state board prescribes rules and regulations and advises with the subordinate tax officials. It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,<sup>393</sup> and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.<sup>394</sup>

<sup>389</sup> Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937, exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

<sup>390</sup> 1 Rev. Stat. 1852; Burns 26-1207; Baldwin 5336.

<sup>391</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>392</sup> Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

<sup>393</sup> The state board of tax commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Municipally owned utilities are assessed by the state board for state and county levies. Such utilities are not subject to township, school city, civil city, or other levies.

Car equipment companies pay a tax of two percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1913, 1933; Burns 54-610 (d); Baldwin 14027 (d). Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654.

<sup>394</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.<sup>395</sup> Personal property is assessed each year as of the first day of March.<sup>396</sup> Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.<sup>397</sup> All property, real and personal, is required to be assessed at the true cash value thereof.<sup>398</sup> Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.<sup>399</sup> Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.<sup>400</sup> If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such re-

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15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1939 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

<sup>395</sup> Acts 1919; Burns 64-2814; Baldwin 15877.

<sup>396</sup> Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

<sup>397</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

<sup>398</sup> Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1939 suppl.,

64-1019b; Baldwin, 1937 suppl., 15685-2.

<sup>399</sup> Acts 1919; Burns 64-401; Baldwin 15524.

<sup>400</sup> Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15560 to 15572, 15578.

fusal, and the auditor adds 50 percent to the valuation returned by the assessor.<sup>401</sup>

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,<sup>402</sup> county assessor,<sup>403</sup> auditor,<sup>404</sup> treasurer,<sup>405</sup> or board of review;<sup>406</sup> and appeal from such assessment may be taken to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, on the question of whether such omitted property is taxable.<sup>407</sup>

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the state board of tax commissioners for incompetency or neglect of duty.<sup>408</sup>

The board of review, after giving two-weeks' notice, meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.<sup>409</sup> Any person dissatisfied with the decision of the board of review may appeal to the state board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.<sup>410</sup>

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<sup>401</sup> Acts 1919; Burns 64 610; Baldwin 15578.

<sup>402</sup> Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>403</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>404</sup> Acts 1919; Burns 64 1402; Baldwin 15739.

<sup>405</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>406</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>407</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

<sup>408</sup> Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

<sup>409</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>410</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. In townships having a population of 35,000 or containing a city of the second class (Adams, St. Joseph, Washington, Wayne), the lists are made out by the township assessors and furnished to the auditor, who returns them to the assessors after making the tax duplicate.<sup>411</sup>

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>412</sup> For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered.<sup>413</sup> On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>414</sup>

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. If such person fails to furnish such list within five days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the valuation of such lands as returned by the assessor.<sup>415</sup>

Each township assessor must, on or before the first Monday in June in each year, make out and deliver to the auditor, in a book furnished by the auditor, a return of the real estate listed containing the names of property owners, description, and value of each parcel as determined by the assessor from actual view.<sup>416</sup>

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<sup>411</sup> Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

<sup>412</sup> *Ibid.*

<sup>413</sup> Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>414</sup> Acts 1921; Burns 64-519; Baldwin 14777.

<sup>415</sup> Acts 1919; Burns 64-1008; Baldwin 15674.

<sup>416</sup> Acts 1919; Burns 64-1016; Baldwin 15682.

The law provides that "re-assessment of real estate shall not be made oftener than every four years or in any year in which there is a general election held for the election of any state, county, or township officials, except upon the order of the state board of tax commissioners and as hereinafter provided."<sup>417</sup> The last general re-assessment of real estate in Indiana was made in 1932.

Each person charged with making assessment valuations of real estate for taxation is charged with the duty of correcting on the books errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the land or the resident of the county claiming ownership, each year assesses any real estate or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.<sup>418</sup> The county assessor,<sup>419</sup> auditor,<sup>420</sup> treasurer,<sup>421</sup> and board of review<sup>422</sup> also have power to assess omitted real property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.<sup>423</sup> The assessments of omitted real property by the township assessors, county assessor, auditor, and treasurer may be reviewed and revised at the next meeting of the board of review.<sup>424</sup> The decision of the board of review in reviewing such assessment or in making an original assessment of omitted real property may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.<sup>425</sup> From any assessment of omitted real property, appeal may be taken to Allen Circuit Court, Superior Court of

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<sup>417</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685.

<sup>418</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>419</sup> Acts 1919; Burns 64-1102; Baldwin 15628.

<sup>420</sup> Acts 1919; Burns 64-1402; Baldwin 15739.

<sup>421</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>422</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>423</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>424</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

<sup>425</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

Allen County, or Allen Superior Court No. 2, on the question whether such property is taxable.<sup>426</sup>

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order re-assessment of all or part of the property in such township.<sup>427</sup>

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of re-assessment for the whole state or for any of the counties or townships thereof. Notice is given, and a hearing is held in each county in which the affected property is located. The board may then order re-assessment.<sup>428</sup>

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for re-assessment of his real estate. At the hearing, the petitioner must show cause for re-assessment. Other taxpayers may be heard in opposition. The board may then order the re-assessment petitioned for. This is the only method for obtaining re-assessment of particular real estate.<sup>429</sup>

A petition for re-assessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the state board of tax commissioners before March 31, in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order re-assessment of all or part of the real estate in the township.<sup>430</sup>

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<sup>426</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

<sup>427</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019 (c); Baldwin, 1937 suppl., 15685 (c).

<sup>428</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns 1939 suppl., 64-1019 (b); Baldwin, 1937 suppl., 15685 (b).

<sup>429</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019 (d); Baldwin, 1937 suppl., 15685 (d).

<sup>430</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019 (a); Baldwin, 1937 suppl., 15685 (a).

Within ten days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2 on questions of law concerning such valuation.<sup>431</sup>

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township—except municipally owned utilities; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers' and sailors' memorial associations; property of associations such as the American Legion, Young Men's Christian Association, and Knights of Columbus; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the state for certain purposes; and certain annuities payable by religious or charitable organizations.<sup>432</sup> Sworn statements to obtain such exemptions must be filed with the auditor on or before the first day of March each year.<sup>433</sup>

Any Indiana resident owning real estate subject to mortgage may have the amount of the mortgage, not exceeding \$1,000 and not exceeding one-half the assessed valuation, existing and unpaid on the first day of March, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.<sup>434</sup>

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<sup>431</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>432</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201; Baldwin, 1937 suppl., 15518.

<sup>433</sup> Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

<sup>434</sup> Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567.

Under the 1919 act, the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.<sup>435</sup>

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.<sup>436</sup>

Appeal from the action of the county council may be taken to the state board of tax commissioners. The board, after hearing the objections, may affirm or decrease the total tax levy or any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question", is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.<sup>437</sup>

The laws discussed in the next four paragraphs do not apply to levies and rates to meet: (1) Funding, refunding, or judgment funding obligations; (2) "outstanding obligations"; (3) judgments; (4) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (5) obligations issued on petition under this act; (6) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.<sup>438</sup>

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities

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<sup>435</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

<sup>436</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

<sup>437</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>438</sup> Acts 1937; Burns, 1939 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.<sup>439</sup>

At least two days before the second Monday in September, each municipal corporation<sup>440</sup> of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporations, and at least two copies of the budgets on which such levies are based.<sup>441</sup> The board of tax adjustment meets on the second Monday of September each year. At the meeting, the auditor lays before the board the said budgets, tax levies, and rates.<sup>442</sup> It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board then reviews the budgets and proceeds according to the provisions governing appeals, and may authorize rates beyond the said limits.<sup>443</sup>

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the said limits, then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Before October 16, appeal to the state board of tax commissioners may be taken by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, and not as to detailed items. The levy and rate must be kept within the limit originally fixed by the

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<sup>439</sup> Acts 1937; Burns, 1939 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

<sup>440</sup> The term "municipal corporation" includes counties, townships, cities, towns, school districts, and all taxing units within the state. Acts 1933; Burns 64-302; Baldwin 15893.

<sup>441</sup> Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>442</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>443</sup> Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.<sup>444</sup>

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.<sup>445</sup>

If the county council determines that emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.<sup>446</sup>

The auditor, between the first Monday in July and the last day of December, makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate. This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll tax, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each township, city, and town in regular progression. On or before January 1, the county auditor delivers to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.<sup>447</sup>

Property taxes for state, county, township, city, and town purposes are payable to the county treasurer in two equal installments on or before the first Monday in May and the first

<sup>444</sup> Acts 1937; Burns, 1939 suppl., 61-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15847-8.

<sup>445</sup> Acts 1937; Burns, 1939 suppl., 64-315; Baldwin, 1937 suppl., 15837-9.

<sup>446</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 61-1331; Baldwin, 1935 suppl., 15735.

<sup>447</sup> Acts 1919; Burns 61-1403, 61-1408; Baldwin 15740, 15745.

Monday in November, respectively, in the year following the year for which the property was assessed. If any installment is not paid when it becomes due, such installment becomes delinquent, and a penalty of eight percent of such installment is added.<sup>448</sup>

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement, but not until 15 months have elapsed since delinquency.<sup>449</sup> The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within two years after the sale. The redeemer must pay to the treasurer the amount paid by the purchaser (as shown in the tax-sale certificate), plus the cost of sale, plus a percentage of the purchase price and cost of sale (10 percent if redeemed within six months after the sale, 15 percent if redeemed six months to one year after the sale, or 25 percent if redeemed one to two years after the sale), plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of six percent per annum. The money so paid to the treasurer is paid by him to the holder of the redeemed tax certificate.<sup>450</sup>

#### EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax<sup>451</sup> (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county

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<sup>448</sup> Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1939 suppl., 64-1542; Baldwin, 1935 suppl., 15765-1.

<sup>449</sup> Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

<sup>450</sup> Acts 1919; Burns 64-2301; Baldwin 15819.

Infants, idiots, and insane persons may redeem their lands within two years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

<sup>451</sup> Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

auditor and county treasurer under the supervision of the state board of tax commissioners.<sup>452</sup>

The inheritance tax is an excise tax administered by the county assessor and the county treasurer, under the supervision of the state board of tax commissioners, and by the court exercising probate jurisdiction (Allen Superior Court No. 2). Schedule must be filed with the court within 12 months after the death of decedent. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.<sup>453</sup> The appraiser makes his report in duplicate, one copy to the court and one copy to the state board of tax commissioners.<sup>454</sup> The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.<sup>455</sup> The county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, by warrant issued by the county auditor, to the treasurer of state.<sup>456</sup> When directed by the court to do so, the prosecuting attorney sues to collect the tax.<sup>457</sup>

The intangible tax (excise tax)<sup>458</sup> is a stamp tax on notes, stocks, bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor<sup>459</sup> and the county treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.<sup>460</sup> The taxpayer is required to file with his tangible-personal-property schedule an affidavit showing that he has complied with the intangible-tax law.<sup>461</sup> If the tax is not

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<sup>452</sup> Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615.

<sup>453</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1931, 1933; Burns 6-2408; Baldwin

15946. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

<sup>454</sup> Acts 1931; Burns 6-2410; Baldwin 15948.

<sup>455</sup> Acts 1931; Burns 6-2413; Baldwin 15951.

<sup>456</sup> Acts 1931; Burns 6-2414; Baldwin 15952.

<sup>457</sup> Acts 1931; Burns 6-2415; Baldwin 15953.

<sup>458</sup> Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

<sup>459</sup> Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1939 suppl., 64-905;

Baldwin, 1935 suppl., 15904.

<sup>460</sup> Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

<sup>461</sup> Acts 1933; Burns 64-918; Baldwin 15916.

paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located. Omitted property may be assessed by any officer of the county having authority under the general taxing laws to assess omitted property or by the state board of tax commissioners.<sup>462</sup> In case of nonpayment, suit for collection may be brought by the prosecuting attorney or the attorney general.<sup>463</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes, each township assessor makes inquiry concerning dogs and kennels, and collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.<sup>464</sup> The money so collected constitutes a fund known as the "dog fund", and is used to pay for damage to livestock caused by dogs. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.<sup>465</sup>

The clerk of the circuit court issues licenses for marriages,<sup>466</sup> physicians, surgeons,<sup>467</sup> midwives,<sup>468</sup> osteopaths,<sup>469</sup> chiropractors, drugless healers,<sup>470</sup> dentists,<sup>471</sup> optometrists,<sup>472</sup> hunting, trapping, fishing,<sup>473</sup> poultry deal-

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<sup>462</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-915; Baldwin, 1935 suppl., 15913.

<sup>463</sup> Acts 1933; Burns 64-921; Baldwin 15919.

<sup>464</sup> Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

<sup>465</sup> Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

<sup>466</sup> Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

<sup>467</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>468</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>469</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>470</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

<sup>471</sup> Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>472</sup> Acts 1907; Burns 63-1009; Baldwin 12180. Acts 1907, 1925; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>473</sup> Acts 1901, ch. 273, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 229 3.

ers,<sup>474</sup> and junk dealers.<sup>475</sup> He registers certificates of trained nurses.<sup>476</sup> Formerly he issued liquor licenses,<sup>477</sup> brokers' licenses,<sup>478</sup> firearms permits,<sup>479</sup> licenses for veterinarians,<sup>480</sup> stallions,<sup>481</sup> and petty money lenders,<sup>482</sup> and kept a register of certificates of agents of foreign insurance companies.<sup>483</sup>

The county auditor issues licenses for peddlers, shows, theaters,<sup>484</sup> and transient merchants,<sup>485</sup> and permits for public warehouses.<sup>486</sup> Formerly he issued liquor licenses,<sup>487</sup> and received and filed remonstrances against issuances of saloon licenses by the board of commissioners.<sup>488</sup>

#### FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon

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The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

<sup>474</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>475</sup> Acts 1905; Burns 42-703; Baldwin 10462.

<sup>476</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

<sup>477</sup> Acts 1820-21, ch. 36, secs. 1, 2. Pharmacists' liquor licenses. Acts 1917, ch. 4, secs.

6, 12.

<sup>478</sup> Acts 1840-41 (general), ch. 5, sec. 18.

<sup>479</sup> Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21).

<sup>480</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

<sup>481</sup> Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>482</sup> Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

<sup>483</sup> Acts 1901, ch. 180, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1903, ch. 66, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567 (repealed by Acts 1935, ch. 162, sec. 276).

<sup>484</sup> 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>485</sup> Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>486</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>487</sup> Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State (1884), 93 Ind. 396.

<sup>488</sup> Acts 1905, ch. 6, sec. 1.

as compensation, unless a statute specifically authorizes them to do so. Such fees must be paid into the county treasury. The officer cannot draw any salary while illegally withholding fees.<sup>489</sup>

County officials may charge and collect only such fees as are allowed by statute.<sup>490</sup> If an officer collects illegal fees, the county cannot recover them from such officer, since they belong to the person paying the same.<sup>491</sup> If the officer unlawfully refuses to pay over fees collected by him, an action lies, on his bond;<sup>492</sup> and if he pays over fees which he is entitled to retain, he may sue to recover the same.<sup>493</sup>

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be inspected by the board of commissioners at their meetings.<sup>494</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.<sup>495</sup> The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.<sup>496</sup>

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<sup>489</sup> Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers (1894), 137 Ind. 106, 35 N. E. 1103; Applegate v. State ex rel. Pettijohn (1933), 205 Ind. 122, 185 N. E. 911; Board of County Comrs. v. Lewis (1924), 81 Ind. App. 601, 144 N. E. 623.

<sup>490</sup> Noble v. Board of County Comrs. (1885), 101 Ind. 127; Legler v. Paine (1896), 147 Ind. 181, 45 N. E. 604.

<sup>491</sup> State ex rel. Board of County Comrs. v. Williams (1906), 39 Ind. App. 376, 77 N. E. 1137.

<sup>492</sup> Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State ex rel. Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

<sup>493</sup> Board of County Comrs. v. Crone (1905), 36 Ind. App. 283, 75 N. E. 826.

<sup>494</sup> Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

<sup>495</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>496</sup> Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

## FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor-vehicle highway account of the state. This account is composed of excise taxes on motor-vehicle fuel, motor-vehicles, operators, and chauffeurs.<sup>497</sup> The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all of the counties. The 1937 law recites that there are 141,793 miles in Allen County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.<sup>498</sup> Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county-unit road bonds.<sup>499</sup>

The counties receive from the state a portion of the license fees on liquor dealers. Distribution among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.<sup>500</sup>

The counties receive a portion of the intangible tax. Distribution among the counties is on a basis of assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county, and the remainder goes to the school funds of the township, city, and town taxing units on a basis of valuation of the real property in each.<sup>501</sup>

Each county receives from the state, as reimbursement, about 81 percent of the money spent by the county for welfare assistance.<sup>502</sup>

Distribution of the income from the common school fund surplus by the state to the several counties for school purposes is on the basis of average daily attendance of children

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<sup>497</sup> Acts 1937; Burns, 1939 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

<sup>498</sup> Acts 1937; Burns, 1939 suppl., 36-2808; Baldwin, 1937 suppl., 8695-8.

<sup>499</sup> Acts 1937, 1939; Burns, 1939 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695-5, 8695-6.

<sup>500</sup> Acts 1935; Burns, 1939 suppl., 12-811; Baldwin, 1935 suppl., 3761-40 (f).

<sup>501</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>502</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. This percentage was stated by the auditor of state in an interview on March 31, 1939.

in grades one to twelve in the schools of the respective counties.<sup>503</sup> School funds are discussed hereinafter under the heading "Education."

#### CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least five days after the docketing of the claim and three days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.<sup>504</sup> The board cannot allow a claim that it previously disallowed.<sup>505</sup>

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.<sup>506</sup> A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.<sup>507</sup> A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.<sup>508</sup>

For the amount allowed by the board of commissioners, the auditor, after appropriation by the county council, issues a warrant which is countersigned by the treasurer and paid by the treasurer or a public depository designated thereon by him.<sup>509</sup> An allowance not called for within five years may

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<sup>503</sup> Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

<sup>504</sup> Acts 1879, 1899; Burns 26-538, 26-804; Baldwin 5403, 5256. Acts 1879 (Spec. Sess.); Burns 26-865, 26-897; Baldwin 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

<sup>505</sup> Myers v. Gibson (1899), 152 Ind. 500, 53 N. E. 646.

<sup>506</sup> Acts 1899; Burns 26-538; Baldwin 5403.

<sup>507</sup> Acts 1899; Burns 26-539; Baldwin 5404.

<sup>508</sup> Acts 1911; Burns 26-814; Baldwin 5265.

<sup>509</sup> Acts 1911; Burns 26 813, 26-814; Baldwin 5264, 5265. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

be cancelled.<sup>510</sup> Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.<sup>511</sup> However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.<sup>512</sup>

Any person feeling aggrieved by any decision of the board on any claim may appeal to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.<sup>513</sup> No complaint other than the claim (including certificates and exhibits, if any) presented to the board is required on appeal.<sup>514</sup> If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.<sup>515</sup>

In pursuance of appropriations by the county council,<sup>516</sup> courts make allowances against the county for expense of administration of justice.<sup>517</sup> Such allowances include fees of witnesses,<sup>518</sup> jurors,<sup>519</sup> master commissioners,<sup>520</sup> sheriffs,<sup>521</sup> bailiffs,<sup>522</sup> and salary of the court reporter<sup>523</sup> and his fees covering transcripts for poor persons.<sup>524</sup>

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<sup>510</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>511</sup> 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

<sup>512</sup> Waymire v. Powell (1886), 105 Ind. 328, 4 N. E. 886.

<sup>513</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>514</sup> Board of County Comrs. v. Wertz (1887) 112 Ind. 268, 13 N. E. 874.

<sup>515</sup> Western Constr. Co. v. Board of County Comrs. (1912), 178 Ind. 634, 98 N. E. 347.

<sup>516</sup> Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

<sup>517</sup> Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

<sup>518</sup> 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

<sup>519</sup> Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

<sup>520</sup> Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

<sup>521</sup> Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

<sup>522</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496.

<sup>523</sup> Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1.

<sup>524</sup> Acts 1893; Burns 4-3511; Baldwin 1300.

Within ten days after adjournment of the session of the board of commissioners or of the court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until three days after such publication.<sup>525</sup>

#### CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued and attested by the auditor.<sup>526</sup>

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>527</sup> The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.<sup>528</sup> The resignation of a depository becomes effective 30 days after notice thereof to the board.<sup>529</sup> Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are preserved in the office of the board.<sup>530</sup> All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.<sup>531</sup> The treasurer deposits quarterly with the auditor all redeemed warrants.<sup>532</sup>

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation

<sup>525</sup> Acts 1899; Burns 26-816; Baldwin 5263. Acts 1931; Burns 26-817; Baldwin 5269.

<sup>526</sup> Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>527</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>528</sup> Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>529</sup> Acts 1937; Burns, 1939 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

<sup>530</sup> Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

<sup>531</sup> Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

<sup>532</sup> 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of May 18, 1939 with E. P. Brennan, state examiner.

is involved.<sup>533</sup> Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.<sup>534</sup> The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>535</sup> Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>536</sup>

On claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant. But a warrant may be issued to pay a judgment, or for insanity inquests, salaries, management of the school fund, or for other liabilities for specific amounts fixed by law, when no claim therefor has been allowed by the board of commissioners.<sup>537</sup> Warrants not called for within five years after allowance of claim on which drawn may be cancelled by the board of commissioners, if not called for after publication of notice.<sup>538</sup>

Warrants drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of funds of the state and township. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.<sup>539</sup> The treasurer must deduct any de-

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<sup>533</sup> Acts 1899; Burns 26-544; Baldwin 5409.

<sup>534</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin

13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

<sup>535</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>536</sup> Acts 1909; Burns 60-215; Baldwin 13866.

<sup>537</sup> Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264,

5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>538</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>539</sup> 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1939 suppl., 61-627;

Baldwin, 1937 suppl., 13844-48.

linquent taxes owing by the payee.<sup>540</sup> If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.<sup>541</sup> Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.<sup>542</sup> When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.<sup>543</sup>

Every public officer who receives or distributes public funds must keep a cashbook wherein there is entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.<sup>544</sup> The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.<sup>545</sup> The treasurer's books and office are subject to inspection by the board of commissioners at any time.<sup>546</sup> At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at their next regular session.<sup>547</sup>

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payor with the auditor, who gives a quietus for the same.<sup>548</sup>

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be pub-

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<sup>540</sup> Acts 1919; Burns 61-1706; Baldwin 15763.

<sup>541</sup> Acts 1789; Burns 49-3007, 49-3003; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

<sup>542</sup> 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

<sup>543</sup> 1 Rev. Stat. 1872; Burns 49-3112; Baldwin 5559.

<sup>544</sup> Acts 1907; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>545</sup> 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

<sup>546</sup> 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555.

<sup>547</sup> Acts 1875, 1913; Burns 49-1403; Baldwin 7578.

<sup>548</sup> 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

lished and posted.<sup>549</sup> The treasurer makes complete settlements with the board of commissioners at its January session each year.<sup>550</sup> Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.<sup>551</sup>

All taxes collected by the treasurer must be deposited in the depository as one fund, except where otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations of the county for taxes collected for them by the treasurer. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.<sup>552</sup>

The books and accounts of county officers are audited, from time to time without notice, by the state examiner.<sup>553</sup> Before 1909 the board of commissioners performed this function.<sup>554</sup>

#### PUBLIC DEBT

The constitution provides that the total amount of the county debt shall not exceed two percent of the value of the taxable property therein,<sup>555</sup> and a statute provides that such debt shall not exceed two percent of the taxable property less the total of all mortgage exemptions.<sup>556</sup>

The borrowing of money for the county must be authorized by ordinance of the county council.<sup>557</sup> The notes, bonds, or

<sup>549</sup> Acts 1899; Burns 26-546; Baldwin 5411.

<sup>550</sup> Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

<sup>551</sup> Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

<sup>552</sup> Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>553</sup> Acts 1909; Burns 60-211; Baldwin 13862.

<sup>554</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

Acts 1897; Burns 26-636; Baldwin 5237. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>555</sup> Const., art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity.

<sup>556</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

<sup>557</sup> *Ibid.*

other evidence of indebtedness are executed by the county commissioners and attested by the auditor.<sup>558</sup> The obligations may bear interest at a rate not exceeding six percent per annum. If the interest rate exceeds five percent, the issuance must be approved by the state board of tax commissioners.<sup>559</sup> The council may provide for maturities at any time not exceeding 52 years from issuance.<sup>560</sup>

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor the objections will be certified to the state board of tax commissioners for hearing and disposition.<sup>561</sup>

Temporary loans may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.<sup>562</sup>

The county council must make a levy of not less than one-tenth of one percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in said bonds or other state or county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.<sup>563</sup> The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.<sup>564</sup>

## ELECTIONS

In Indiana there are three types of elections, primary,

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<sup>558</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

<sup>559</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin, 15736.

<sup>560</sup> Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5386, 17896.

<sup>561</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>562</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

<sup>563</sup> 1 Rev. Stat. 1852, Acts 1859; Burns 26 1006; Baldwin 5247. Acts 1899; Burns 26 515; Baldwin 5279.

<sup>564</sup> 1 Rev. Stat. 1852; Burns 26 1007; Baldwin 5248.

special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state party conventions. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state 10 percent or more of the aggregate vote cast for all candidates for secretary of state in the last general election held for that office.<sup>565</sup> Special elections are held to fill vacancies in the United States Congress, the Indiana General Assembly, in offices required to be filled by special election, and in all offices in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.<sup>566</sup> The general election, held biennially, is for the purpose of filling all existing vacancies in office, and all offices the terms of which will expire before the next general election thereafter.<sup>567</sup>

Primary elections are held on the first Tuesday after the first Monday in May preceding the general elections.<sup>568</sup> They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons, of opposite political parties, appointed by him. This board prepares and distributes ballots for the primary elections,<sup>569</sup> and serves as the county board of election commissioners at the general election for which nominations are made at the primary election.<sup>570</sup>

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.<sup>571</sup> County officers elected by the people are county commissioners, county councilmen, judges of the circuit and superior courts, prosecuting attorney, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, surveyor, and assessor. These elections are held under the supervision of the county board of election commissioners, which prepares the county ballots and distributes the county and state bal-

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<sup>565</sup> Acts 1915; Burns 29-501; Baldwin 7187.

<sup>566</sup> Acts 1881 (Spec. Sess.); Burns 29-1701 to 29-1704; Baldwin 7246 to 7249.

<sup>567</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>568</sup> Acts 1915, 1917; Burns 29-508; Baldwin 7194.

<sup>569</sup> Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>570</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>571</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

lots.<sup>572</sup> The county board of election commissioners appoints the election officials for each precinct, namely, the precinct board of election (consisting of one inspector and two judges),<sup>573</sup> two poll clerks (and two assistant poll clerks if necessary),<sup>574</sup> and two election sheriffs.<sup>575</sup> The election judges, poll clerks, and election sheriffs are of opposite political faith and are nominated by the chairmen of their respective county central committees. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the last election for secretary of state.<sup>576</sup> The township trustee is, ex officio, the election inspector in the precinct in which he resides.<sup>577</sup>

The constitution provides that all elections shall be free and equal, prescribes the length of residence required of an elector, designates the time of holding elections, and gives the general assembly power to provide for the registration of voters.<sup>578</sup>

All citizens of the United States, of the age of 21 years and upwards, resident in the state six months, in the township 60 days, and in the precinct 30 days, immediately preceding an election, are entitled to vote. All citizens of foreign birth who have resided in the United States one year and have the age and residence qualifications prescribed above, also may vote, if they have declared their intention to become naturalized.<sup>579</sup> Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.<sup>580</sup> Registration is required of all voters.<sup>581</sup> There were 87,620 registered voters in Allen County for the general election in November 1933.<sup>582</sup> The registration

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<sup>572</sup> Acts 1889; Burns 29-102; Baldwin 7109.

<sup>573</sup> Acts 1929, 1933; Burns 29-804; Baldwin 7093.

<sup>574</sup> Acts 1929; Burns 29-805; Baldwin 7094.

<sup>575</sup> Acts 1929; Burns 29-806; Baldwin 7095.

<sup>576</sup> Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>577</sup> .

officer (the clerk of the circuit court ex officio) conducts the registration of voters.<sup>583</sup>

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;<sup>584</sup> providing rooms for polling places and equipping them with voting booths;<sup>585</sup> and the purchase of voting machines for the several precincts.<sup>586</sup>

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.<sup>587</sup>

The board of canvassers (consisting of the election commissioners,<sup>588</sup> with the clerk of the circuit court acting as clerk)<sup>589</sup> tabulates and compiles the election returns of the county, and files all data, canvass sheets, certificates, poll books, and tally papers in the office of the clerk, and certifies the candidates elected.<sup>590</sup>

## EDUCATION

The public school system of Indiana began with the Ordinance of 1787.<sup>591</sup> The first financial support for a public school system came from sale of lands of section 16 of each Congressional township.<sup>592</sup> Interest in education grew slowly before 1850, and it was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any serious attention from the

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<sup>583</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>584</sup> Acts 1889, 1907; Burns 29-801; Baldwin 7039. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>585</sup> Acts 1920 (Spec. Sess.); Burns 29-509; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>586</sup> Acts 1939; Burns, 1939 suppl., 29-563; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>587</sup> Acts 1935; Burns, 1939 suppl., 29-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

<sup>588</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>589</sup> Acts 1905; Burns 29-1402; Baldwin 7378.

<sup>590</sup> Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

<sup>591</sup> Ordinance of 1787, art. 3.

<sup>592</sup> *U. S. Statutes at Large*, 3:289, sec. 6(1); Burns, vol. 1, p. 302.

state.<sup>593</sup> The school law of 1865 brought the most complete revision.<sup>594</sup> The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.<sup>595</sup>

In 1816 the Congressional township fund was provided for the development of the public school system. The fund was composed of the proceeds of the sale of lands of section 16 of each Congressional township.<sup>596</sup> The fund was not very well handled during these years, and the public schools were allowed to struggle on as best they could.<sup>597</sup>

By 1850 the people of the state were convinced that something more should be done for the support of the school system. Acts of the general assembly diverted moneys from various sources (enumerated below) to the schools, but negligent—in some instances, fraudulent—management often depleted adequate provision for education. Thus, the Constitution of 1851 established the common school fund<sup>598</sup> composed of: The Congressional township fund and the lands belonging thereto; the surplus revenue fund; the bank-tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries; fines and forfeitures; and the proceeds from the sales of all lands that belonged to the state in 1851.<sup>599</sup>

The constitution further provided that the principal of the common school fund shall remain a perpetual fund and be invested so that it might increase but never diminish; and that only the interest earned by the fund may be expended.<sup>600</sup> The general assembly was given the right to invest all funds that were not already under the supervision of the counties; and they were to distribute the interest to the counties.<sup>601</sup> Interest at the rate of five percent is charged on loans from the common school fund and the Congressional township fund. For the school year of 1937-38, Allen County received a total of \$41,075.68 from the interest on the common school fund

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<sup>593</sup> Const., art. 8. 1 Rev. Stat. 1852, ch. 98.

<sup>594</sup> Acts 1865; Burns 28-101; Baldwin 6499.

<sup>595</sup> Const., art. 8, sec. 1.

<sup>596</sup> *U. S. Statutes at Large*, 3:289, sec. 6 (1); Burns, vol. 1, p. 302.

<sup>597</sup> Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

<sup>598</sup> Const., art. 8, secs. 2-7.

<sup>599</sup> *Ibid.*, sec. 2. Acts 1865; Burns 28-101; Baldwin 6499.

<sup>600</sup> Const., art. 8, sec. 3.

<sup>601</sup> *Ibid.*, sec. 4. Acts 1907; Burns 28-102; Baldwin 6500.

(from the funds managed by the state).<sup>602</sup> These funds are for tuition purposes of the schools.

Since 1865 the funds managed by the county have been kept by the county auditor in two separate funds, the common school fund and the Congressional township fund.<sup>603</sup> Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest.<sup>604</sup>

In 1866 the enrollment in the common schools of Allen County was 8,298 pupils.<sup>605</sup> The length of the term averaged 98 days.<sup>606</sup> At that time there were no high schools, but a county seminary had been established some years before.<sup>607</sup>

In 1885 the enrollment in the public schools had increased to 10,468 pupils. The high school had then become an accepted part of the educational system, but the only high school was in Fort Wayne. The length of the term had grown to 150 days. There were then 187 school buildings in the county, though most of them were one-room schools. The valuation of all the school property was then \$399,475.<sup>608</sup>

Statistics for 1938 show that Allen County now has 25,505 pupils schooled in 76 school units, of which 14 are high schools or grade and high schools combined. The length of the school term has become 164 days, and the total valuation is now \$205,161,160.<sup>609</sup> These statistics show that, with constantly improving facilities for transportation, it has become possible to combine the numerous district school units into a few consolidated schools.<sup>610</sup> School buses provided by the school corporation transport the students from their homes to school and home again.<sup>611</sup>

There are three types of school organizations. The schools that are commonly known as county schools are, in reality,

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<sup>602</sup> *Annual Report of the State Superintendent of Public Instruction, 1937-38*, p. 439.

<sup>603</sup> Acts 1865; Burns 28-105; Baldwin 6511.

<sup>604</sup> Const., art. 8, sec. 6. Acts 1865; Burns 28-104; Baldwin 6499 1.

<sup>605</sup> *Annual Report of the State Superintendent of Public Instruction, 1866-76*.

<sup>606</sup> *Ibid.*

<sup>607</sup> See Historical Sketch under part A 1 of this book.

<sup>608</sup> *Annual Report of the State Superintendent of Public Instruction, 1885-86*.

<sup>609</sup> *Ibid.*, 1937-38, pp. 404, 405, 42. *Indiana School Directory, 1938-39*, pp. 84-90. Interview of September 7, 1939 with Frank G. Thompson, auditor of state.

<sup>610</sup> Acts 1877; Burns 28-2601, 28-2602; Baldwin 6153, 6154. Acts 1903; Burns 28-2603; Baldwin 6155. Acts 1921; Burns 28-2604; Baldwin 6101.

<sup>611</sup> Acts 1917; Burns 28-3801; Baldwin 6271. State ex rel. Beard v. Jackson (1906), 163 Ind. 384, 390.

township schools and are operated by the township trustee. There are also town and city schools. These are operated in a similar manner by school boards. In cities or towns of not over 58,000 population, the common council appoints a school board of three members.<sup>612</sup> For school purposes, cities of over 58,000 (Fort Wayne) are classified according to population, and separate statutes govern each classification.<sup>613</sup>

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of education.<sup>614</sup> He has no supervision of city or town schools.<sup>615</sup>

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.<sup>616</sup>

The local school systems are closely supervised by the state board of education with the state superintendent of public instruction as its administrative head.<sup>617</sup> One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training of the licensee.<sup>618</sup> The state board of education provides for the inspection of schools,<sup>619</sup>

<sup>612</sup> Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

<sup>613</sup> Acts 1905, 1921; Burns 28-1202; Baldwin 5963.

<sup>614</sup> Acts 1899, 1911, 1913; Burns 28-702, 28-704; Baldwin 5921, 5938. State ex rel. Nebeker v. Sutton (1884), 99 Ind. 300.

<sup>615</sup> Acts 1839; Burns 28-705; Baldwin 5940.

<sup>616</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983.

Interview of July 26, 1939 with Grover Van Duyn, assistant state superintendent of public instruction. See the essay entitled "County Board of Education."

<sup>617</sup> Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1929; Burns, 1929 suppl., 28-401a; Baldwin, 1929 suppl., 5906.

<sup>618</sup> Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

<sup>619</sup> Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5929.

a uniform schedule of textbooks,<sup>620</sup> and prescribes an accredited course of instruction for teacher training.<sup>621</sup>

Attendance is compulsory in all the schools in the county for every child between the ages of seven and 16 years. Exceptions are based on physical or mental condition and on court decisions.<sup>622</sup>

The general assembly has provided that whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them, providing they have rights, privileges, and advantages equal to those in the other schools in the corporation. Otherwise they must attend the public schools with white children.<sup>623</sup> Colored schools are represented on the state board of education by the required presence of one member of the negro race.<sup>624</sup>

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.<sup>625</sup> Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.<sup>626</sup>

In 1933 the general assembly inaugurated a plan for state aid to the schools. There are three main sources of funds that are returned to the county.

From the general fund, the state supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades one to eight, and for each unit of 25 pupils in average daily attendance in grades nine to twelve.<sup>627</sup> The total amount received by Allen County from this source during the 1937-38 school year was \$498,400.<sup>628</sup>

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<sup>620</sup> Acts 1889, 1903, 1917; Burns 28-601; Baldwin 28-6675.

<sup>621</sup> Acts 8923; Burns 28-4205; Baldwin 5916.

<sup>622</sup> Acts 1921; Burns 28-505; Baldwin 668.

<sup>623</sup> Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1939 suppl., 28-504; Baldwin, 1935 suppl.,

6012.

<sup>624</sup> Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906.1.

<sup>625</sup> Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

<sup>626</sup> Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

<sup>627</sup> Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502

to 6504.

<sup>628</sup> *Annual Report of the State Superintendent of Public Instruction, 1937-38*, pp. 407, 410, 424.

From the moneys raised from the excise tax on alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance (which took the place of the enumeration).<sup>629</sup> Allen County received \$32,562.63 from this source for the school year 1937-38.<sup>630</sup>

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remaining amount is apportioned to the counties in the proportion that the assessed valuation of real property in each county bears to the aggregate assessed valuation of real property in the state. The county then retains for its general fund one-fourth of the amount received and distributes the remainder to the school taxing units. Apportionment among such units is based on assessed valuation of real property of the county.<sup>631</sup> For the school year 1937-38 the school taxing units of Allen County received \$59,791.22 from this source.<sup>632</sup>

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a seven-cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.<sup>633</sup> Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed eight months, he or they must file a certificate with the county superintendent of schools stating its needs.<sup>634</sup> The county superintendent of schools forwards the certificate to the state board of education,<sup>635</sup> and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.<sup>636</sup> The money received must first be used to pay any unpaid items of operating expenses which

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<sup>629</sup> Acts 1935, 1939; Burns, 1939 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1593, 1932 (Spec. Sess.), 1933; Burns 28-103; Baldwin 6490.

<sup>630</sup> *Annual Report of the State Superintendent of Public Instruction, 1937-38*, pp. 407, 410, 424.

<sup>631</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>632</sup> *Annual Report of the State Superintendent of Public Instruction, 1937-38*, pp. 407, 410, 424.

<sup>633</sup> Acts 1933; Burns 28-901; Baldwin 6431.

<sup>634</sup> Acts 1933; Burns 28-903; Baldwin 6133.

<sup>635</sup> Acts 1933; Burns 28-904; Baldwin 6434.

<sup>636</sup> Acts 1933; Burns 28-905; Baldwin 6475.

accrued before the making of such application; and any surplus must be used for the operating expenses of the current year.<sup>637</sup> Allen County received \$5,215.67 from this fund in the school year of 1937-38.<sup>638</sup>

The school cities, towns, and townships may levy property taxes and poll taxes<sup>639</sup> for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;<sup>640</sup> to enforce compulsory education and keep poor children in school;<sup>641</sup> to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;<sup>642</sup> establishment of vocational schools;<sup>643</sup> and for the retirement of school bonds.<sup>644</sup>

### PUBLIC HEALTH

The state board of health closely supervises and directs all local public health activities.<sup>645</sup> Public health is administered in the county by a part-time health officer, who is responsible to the board of commissioners and the state board of health. The county health officer is appointed by the board of commissioners, subject to approval by the state board.<sup>646</sup> The state board of health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.<sup>647</sup>

The educational facilities offered by the state board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring health information on public health. These facilities may be obtained from the bureaus of health

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<sup>637</sup> Acts 1933, 1935; Burns, 1939 suppl., 28-907; Baldwin, 1935 suppl., 6437.

<sup>638</sup> *Annual Report of the State Superintendent of Public Instruction, 1937-38*, pp. 407, 424.

<sup>639</sup> Acts 1919; Burns 64-101; Baldwin 15514.

<sup>640</sup> Acts 1865, 1873, 1905, 1917; Burns 78-1101; Baldwin 6442.

<sup>641</sup> Acts 1921; Burns 28-513; Baldwin 6706.

<sup>642</sup> Acts 1913; Burns 28-3421; Baldwin 6468.

<sup>643</sup> Acts 1913, 1919; Burns 28-4502; Baldwin 6448.

<sup>644</sup> Acts 1937; Burns, 1939 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

<sup>645</sup> Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8290, 8291.

<sup>646</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>647</sup> Acts 1905; Burns 35-302; Baldwin 8394.

and physical education, communicable diseases, and for control of venereal diseases.<sup>648</sup>

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid vaccine to physicians for indigent patients.<sup>649</sup>

Health laws require that public water supplies must be inspected by the state board of health;<sup>650</sup> that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;<sup>651</sup> that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by a nearby nuisance must be properly inspected and ordered vacated;<sup>652</sup> and that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.<sup>653</sup>

Food and drug products are inspected in the state laboratory for adulteration or misbranding.<sup>654</sup> Dairy products are tested for butter fat content and weight.<sup>655</sup>

Contagious diseases must be reported to the state board and properly quarantined by the health officer.<sup>656</sup> All cases of tuberculosis<sup>657</sup> and leprosy must be reported to the state board of health as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of persons having leprosy.<sup>658</sup>

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).<sup>659</sup> If an infant's eyes show any sign of infection within two weeks after the date of birth, a written report thereof must be made to

<sup>648</sup> Acts 1891, 1929; Burns 35-106; Baldwin 8391. Interview of August 17, 1939 with Dr. Verne K. Harvey, director of the state board of health.

<sup>649</sup> Acts 1907, 1919, 1929, 1935, 1939; Burns, 1939 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1937 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

<sup>650</sup> Acts 1909; Burns 35-700, 35-203; Baldwin 8411, 8412.

<sup>651</sup> Acts 1909; Burns 35-1001; Baldwin 8504.

<sup>652</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>653</sup> Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

<sup>654</sup> Acts 1905; Burns 35-362; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 38.

<sup>655</sup> Acts 1913; Burns 35-1301; Baldwin 8455.

<sup>656</sup> Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

<sup>657</sup> Acts 1917; Burns 35-691, 35-692; Baldwin 8402, 8552.

<sup>658</sup> Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

<sup>659</sup> Acts 1911; Burns 35-501; Baldwin 8558.

the health officer within six hours after such discovery.<sup>660</sup>

A recent statute provides that all persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is free from syphilis in an infectious state. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the board. The test must be made not more than 30 days before the application for a license. This law does not go into effect until March 1, 1940.<sup>661</sup>

The local (county or city) part-time health officers are physicians legally qualified to practice medicine and suitably trained in sanitary science.<sup>662</sup> It is possible, under the present Indiana law, to make the local officer a full-time health official.<sup>663</sup> If a county is financially unable to maintain a full-time health officer alone, several counties may join in the support of a full-time district health officer. The expenses of such an office would be in proportion to the population of each county at the time of the last federal census.<sup>664</sup> A full-time public health nurse may be employed to aid either part-time or full-time county or city health officers.<sup>665</sup>

The local health officers enforce the state health laws and the rules and regulations of the state board of health. They promote health education, collect vital statistics, make periodic reports to the state board of health, and keep records of these reports in their record books.<sup>666</sup>

With the aid of federal funds derived from the state's acceptance of the "Social Security Act" enacted by the Congress of the United States and approved on August 14, 1935, the state board of health has been able to establish several district health departments.<sup>667</sup> These district departments are under the supervision of the bureau of local health administration of the state board of health and they in turn give aid

<sup>660</sup> Acts 1911; Burns 35 993; Baldwin § 60.

<sup>661</sup> Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

<sup>662</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-121; Baldwin, 1935 suppl., 8404-1, 8404-4.

<sup>663</sup> Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

<sup>664</sup> Acts 1925; Burns, 1939 suppl., 37-125; Baldwin, 1935 suppl., 8404-8.

<sup>665</sup> Acts 1925; Burns, 1939 suppl., 35-123, 35-125; Baldwin, 1935 suppl., 8404-6, 8404-8.

<sup>666</sup> Acts 1935; Burns, 1939 suppl., 35 118, 35-122, 35 123, Baldwin, 1935 suppl., 8404-1,

8404-5, 8404-6.

<sup>667</sup> Acts 1937 Spec. Sess.; Burns, 1939 suppl., 52 60, 52-160, 52-1601; Baldwin, 1937 suppl., 8409-1, 8409-2, 8409-4.

to the local part-time health officials.<sup>668</sup> Allen County is one of three counties in the state having a maternity nursing service, under the supervision of the bureau of maternal and child health of the state board of health, in conjunction with the Visiting Nurse League of Fort Wayne. Nursing services are rendered during the ante-partum and post-partum periods, to women in families of the indigent and low-income groups. This work is carried on through funds received under the provisions of the "Social Security Act".<sup>669</sup>

#### HOSPITALS

Before the turn of the century, the maintenance of hospitals had been left largely to cities and private associations; but laws now provide for the establishment and maintenance of hospitals by the board of commissioners, whenever they find need for them,<sup>670</sup> on the petition of resident freeholders,<sup>671</sup> or in co-operation with private associations.<sup>672</sup> Training schools for nurses,<sup>673</sup> detention departments for insane patients,<sup>674</sup> tuberculosis departments,<sup>675</sup> and veterinary laboratories<sup>676</sup> are maintainable in connection with these hospitals. The board of commissioners has established and now maintains in Allen County, near Fort Wayne, a tuberculosis hospital (the Irene Byron Sanitorium).<sup>677</sup> The law provides that a county hospital is for the benefit of the following persons: All inhabitants of the county; any person falling sick or being injured within its limits; and of any nonresidents to whom the hospital board may extend its benefits. All persons who are financially able must pay for medical attention furnished to them.<sup>678</sup> Township trustees pay for care given to indigent patients from their respective townships.<sup>679</sup>

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<sup>668</sup> Acts 1926 (Spec. Sess.): Burns, 1939 suppl., 52-1611; Baldwin, 1937 suppl., 8409-11.

<sup>669</sup> Interview of August 17, 1939 with Dr. Verne K. Harvey, director of the state board of health.

<sup>670</sup> Acts 1903, 1929. Burns, 1939 suppl., 12-3201; Baldwin, 1939 suppl., 4507.

<sup>671</sup> Acts 1917, 1919, 1921, 1925, 1927, 1929; Burns 22-3215, 22-3216; Baldwin 4517, 4527.

<sup>672</sup> Acts 1903, 1905; Burns 22-3202. Baldwin 4508.

<sup>673</sup> Acts 1917, 1920; Burns 22-3231, Baldwin 4531.

<sup>674</sup> Acts 1917. Burns 22-3234; Baldwin 4532.

<sup>675</sup> Acts 1917. Burns 22-3235; Baldwin 4533.

<sup>676</sup> Acts 1917, Burns 22-3236; Baldwin 4534.

<sup>677</sup> Acts 1913, 1917, 1927; Burns 22-3301; Baldwin 4478.

<sup>678</sup> Acts 1917; Burns 22-3229; Baldwin 4527.

<sup>679</sup> Acts 1903, 1917; Burns 22-3203, 22-3237, Baldwin 4512, 4535.

## VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the bureau of vital statistics of the state board of health.<sup>680</sup> The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.<sup>681</sup>

All birth reports are to be made to the health officer within 36 hours after birth. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.<sup>682</sup>

Deaths are reported as soon as possible, because a body may not be buried until a burial permit has been made by the health officer in charge, and burial permits are not issued until the death certificate is completed. Burial may be made anywhere in the state regardless of the county in which the permit was issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of said death is required. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner.<sup>683</sup> The burial permit is preserved with the records of the cemetery.<sup>684</sup>

The clerk of the circuit court issues all marriage licenses, and makes a monthly report of all marriages to the county health officer. The health officer records each marriage in his record book, and sends a quarterly report to the state board of health. All marriages must be reported by the person performing them, within three days after the occurrence thereof, on official blanks, to the clerk of the circuit court of the county where the license was issued.<sup>685</sup>

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<sup>680</sup> Acts 1907, 1913; Burns 35-116; Baldwin 8399.

<sup>681</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>682</sup> Acts 1907, 1911, 1913; Burns 35-115, 35-901; Baldwin 8398, 8558. Rule 4 of the state board of health.

<sup>683</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 3 of the state board of health.

<sup>684</sup> Acts 1939; Burns, 1939 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

<sup>685</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 5 of the state board of health.

Weekly reports, on forms provided by the United States Public Health Service, summarizing all communicable diseases are made by the local health officers to the state board of health. The report, stating such to be the case, is made even if there are no diseases to report.<sup>686</sup>

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement are required to keep all statistics concerning the inmates and make reports directly to the state board of health.<sup>687</sup>

### WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act. Welfare assistance is supervised by the county welfare board.

An applicant for old-age assistance must be 65 years old; must be a citizen of the United States; must have lived in the state for five years out of the last nine, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; and must not have transferred his property within the five years immediately before his application.<sup>688</sup> He must reveal all property and income in which he has an interest,<sup>689</sup> agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.<sup>690</sup> After an investigation of his needs, the county department grants him assistance, never exceeding \$30 a month.<sup>691</sup> A copy of the certificate of award is filed in the office of the recorder, and constitutes a lien on any real property the pensioner then owns or subsequently acquires.<sup>692</sup> With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole condition that if assistance is suspended, or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.<sup>693</sup>

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<sup>686</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 6 of the state board of health.

<sup>687</sup> Acts 1907, 1913; Burns 35-117; Baldwin 8400.

<sup>688</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

<sup>689</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

<sup>690</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

<sup>691</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

<sup>692</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

<sup>693</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

A blind applicant, in order to receive state assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state five of the last nine years, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the five years immediately before his application; and must not solicit alms while receiving assistance.<sup>694</sup> The amount he receives is determined by the county department after an investigation of his needs<sup>695</sup> and never exceeds \$30 a month<sup>696</sup> except as temporary assistance is given for treatment of his eyes.<sup>697</sup> Blind children may be sent to the school for the blind near Indianapolis.<sup>698</sup>

A dependent or destitute child must have lived in the state one year preceding his application for assistance or have been born within the state during the year, his mother having resided in the state one year before his birth.<sup>699</sup> A destitute child<sup>700</sup> may receive as much as \$23 a month,<sup>701</sup> and is eligible for any other relief he may require.<sup>702</sup> The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.<sup>703</sup> Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.<sup>704</sup> Diseased and defective children may be placed in any public hospital in the county by the judge of the circuit court.<sup>705</sup> Orphan, dependent, and neglected children under 16 years of age are placed in the

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<sup>694</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1221; Baldwin, 1937 suppl., 14078-52.

<sup>695</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1225; Baldwin, 1937 suppl., 14078-56, 14078-58.

<sup>696</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

<sup>697</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

<sup>698</sup> Acts 1865; Burns 22-601 *et seq.*; Baldwin 4560 *et seq.*

<sup>699</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

<sup>700</sup> Acts 1937; Burns, 1939 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

<sup>701</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1260; Baldwin, 1937 suppl., 14078-97c.

<sup>702</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1278; Baldwin, 1937 suppl., 14078-97i.

<sup>703</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

<sup>704</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

<sup>705</sup> Acts 1933; Burns 52-501; Baldwin 5700.

Allen County Children's Home or in private homes under supervision of the board of commissioners.<sup>706</sup>

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing in loco parentis to such child, except pursuant to a court order.<sup>707</sup> Persons receiving aid under the Welfare Act are ineligible for other public relief.<sup>708</sup> Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy proceedings.<sup>709</sup> When a blind person moves to another county in the state, there is no suspension of any assistance he is receiving;<sup>710</sup> and children and the aged may receive aid for another year from the county from which they moved.<sup>711</sup>

If a person is unable to care for himself, the county department designates and pays this relief money to some responsible person for his benefit.<sup>712</sup> If a recipient of relief dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).<sup>713</sup>

An appeal may be taken from the county department to the state department.<sup>714</sup> Nothing in the Welfare Act relieves any person from liability for the support of parent, child or spouse.<sup>715</sup>

Poor relief is administered by the township trustees.

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<sup>706</sup> Acts 1897; Burns 22-2601, 22-2605; Baldwin 4382, 4385.

<sup>707</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

<sup>708</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

<sup>709</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

<sup>710</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1239; Baldwin, 1937 suppl., 14078-70.

<sup>711</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1218, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-79.

<sup>712</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

<sup>713</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

<sup>714</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

<sup>715</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

The county maintains an asylum for the poor.<sup>716</sup> Residents of the county,<sup>717</sup> paupers,<sup>718</sup> and nonresidents requiring temporary relief<sup>719</sup> may be placed therein. The law prohibits the keeping of children between the ages of three and 17 in the asylum for a longer period than 60 days.<sup>720</sup> They must be placed in the Allen County Children's Home.<sup>721</sup> Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners<sup>722</sup> and to an appeal from that board to the circuit court.<sup>723</sup> The board of commissioners may borrow for poor relief, if the funds available are not sufficient.<sup>724</sup>

### PUBLIC WORKS AND PROPERTY

The board of commissioners has power: To make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; to grant licenses, permits, or franchises with respect to the use of the property of the county.<sup>725</sup> No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.<sup>726</sup> The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.<sup>727</sup>

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<sup>716</sup> Const., Art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

<sup>717</sup> 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1925; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

<sup>718</sup> Acts 1935; Burns, 1939 suppl., 52-151; Baldwin, 1935 suppl., 13320-8.

<sup>719</sup> Acts 1935; Burns, 1939 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

<sup>720</sup> Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

<sup>721</sup> Acts 1897; Burns 22-2605; Baldwin 4385.

<sup>722</sup> Acts 1935; Burns, 1939 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

<sup>723</sup> 1 Rev. Stat. 1852; Burns 26 901.

<sup>724</sup> Acts 1935; Burns, 1939 suppl., 52-604; Baldwin, 1935 suppl., 13359-1.

<sup>725</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

<sup>726</sup> Acts 1899; Burns 26 534; Baldwin 5399.

<sup>727</sup> Acts 1907; Burns 26 2008; Baldwin 5107.

## ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads<sup>728</sup> and bridges.<sup>729</sup> Generally, the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved; a contract for the work is let; and the damages are paid. In some instances, bonds may be issued for the construction of roads<sup>730</sup> and bridges,<sup>731</sup> and special assessment liens charged against the land benefited by the road.<sup>732</sup> The county may render financial assistance to the state highway commission in the construction of any state highway located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.<sup>733</sup>

The county surveyor ordinarily prepares the plans and specifications for, and has general supervision of, the construction of roads and bridges. If he is not a competent civil engineer, the board may appoint one to perform such duties.<sup>734</sup>

The county surveyor, or a highway supervisor (other than the surveyor) appointed by the board, has general supervision of the maintenance and repair of all roads, bridges, and culverts which are maintained from the highway fund of the county.<sup>735</sup> He makes maps of all county roads, and gives each

<sup>728</sup> Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1204; Baldwin 8807. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8804 *et seq.*

<sup>729</sup> Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

<sup>730</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8928 to 8946. Acts 1937; Burns, 1939 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

<sup>731</sup> Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1939 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

<sup>732</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

<sup>733</sup> Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

<sup>734</sup> 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>735</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

road a name or number, so that the roads may be efficiently patrolled for making repairs.<sup>736</sup> Weeds must be cut and removed each year between June 15 and September 1.<sup>737</sup>

All expenses incurred in the maintenance, repair, and preservation of county roads must be paid out of funds received by the county from the motor-vehicle highway account of the state; and no tax can be levied for such purpose except by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.<sup>738</sup>

#### PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where the same has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.<sup>739</sup>

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for such purpose. Additional funds for such purpose may be raised by issuing bonds or notes.<sup>740</sup>

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board, and bonds issued therefor, and a tax levied to pay for the bonds.<sup>741</sup>

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,<sup>742</sup> or to private persons or corporations for a term not exceeding five years.<sup>743</sup>

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<sup>736</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>737</sup> Acts 1939; Burns, 1939 suppl., 26-714; Baldwin, 1939 suppl., 8619-1.

<sup>738</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

<sup>739</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

<sup>740</sup> Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

<sup>741</sup> Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>742</sup> Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

<sup>743</sup> Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.<sup>744</sup> The board may erect soldiers' monuments,<sup>745</sup> memorial buildings, auditoriums, and coliseums.<sup>746</sup>

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,<sup>747</sup> after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.<sup>748</sup>

#### DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court or superior courts on petition of landowners, after reference to the surveyor.<sup>749</sup> The petition will be dismissed if owners of two-thirds of the land affected remonstrate within 20 days.<sup>750</sup> If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.<sup>751</sup> After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the same manner in which taxes are collected.<sup>752</sup>

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when courts grant petitions for construction.<sup>753</sup> The law requires that open ditches be cleaned out and repaired bien-

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<sup>744</sup> Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5164.

<sup>745</sup> Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

<sup>746</sup> Acts 1913; Burns 26-1707; Baldwin 5132.

<sup>747</sup> Acts 1899; Burns 26-525; Baldwin 5389.

<sup>748</sup> Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin

5100 to 5104.

<sup>749</sup> Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770.

<sup>750</sup> Acts 1933; Burns 27-108; Baldwin 5744.

<sup>751</sup> Acts 1933; Burns 27-122; Baldwin 5758.

<sup>752</sup> Acts 1933; Burns 27-134; Baldwin 5770.

<sup>753</sup> Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns

49-3309; Baldwin 5508.

nially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.<sup>754</sup>

The board of commissioners may, by purchase or eminent domain, acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.<sup>755</sup>

#### OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.<sup>756</sup> If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.<sup>757</sup> The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after publication of 30 days' notice, public hearing, consent of the governor and the director of the state department of conservation, fixing a tax levy, and issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.<sup>758</sup>

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.<sup>759</sup> Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.<sup>760</sup> A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners

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<sup>754</sup> Acts 1933, 1935; Burns, 1939 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784.  
Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

<sup>755</sup> Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

<sup>756</sup> Acts 1923, 1927; Burns 26-1501; Baldwin 5189.

<sup>757</sup> Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

<sup>758</sup> Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

<sup>759</sup> Acts 1929; Burns 32-101; Baldwin 4875.

<sup>760</sup> Acts 1929, 1935; Burns, 1939 suppl., 32-102; Baldwin, 1935 suppl., 4876.

and county council in joint session.<sup>761</sup> Any taxpayer may appeal to the circuit court.<sup>762</sup>

Saline and meander lands bordering on lakes and streams, owned by the state, may be purchased by the county to be used for a public park or public forest, or both, on order of the board of commissioners, by filing petition with the circuit or superior courts, appraisal of lands, and payment of value.<sup>763</sup>

The board may permit county lands within one and one-half miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.<sup>764</sup>

The board, on petition of a majority of the voters in the county, may purchase land to be used for fair grounds,<sup>765</sup> and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.<sup>766</sup>

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances necessary and useful in connection therewith.<sup>767</sup>

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,<sup>768</sup> subject to the exceptions hereinafter stated. The board, in which title is vested, may convey any public cemetery to any city or town within the vicinity thereof on application of such city or town,<sup>769</sup> and may convey any cemetery, public or private, to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.<sup>770</sup>

#### MISCELLANEOUS FUNCTIONS

The board of commissioners makes suitable rules and regulations covering traffic on highways in the county, and takes steps necessary to enforce the rules. If the highway is on a

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<sup>761</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>762</sup> Acts 1929, 1935; Burns, 1939 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

<sup>763</sup> Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

<sup>764</sup> Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186

<sup>765</sup> Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

<sup>766</sup> Acts 1873; Burns 26-1519; Baldwin 5332.

<sup>767</sup> Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 4023 to 4026.

<sup>768</sup> 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

<sup>769</sup> Acts 1905; Burns 48-6003; Baldwin 12665.

<sup>770</sup> Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

county line, the boards of commissioners of the respective counties, in joint session, make and enforce the rules.<sup>771</sup> The county surveyor and county highway supervisor have police power in the control of the highways of the county and may fix the limits of the loads for any highway, bridge, or culvert.<sup>772</sup>

The statewide interest in agriculture was so strong in 1851 that the constitution of that year provided that improvement of agriculture should be encouraged.<sup>773</sup> Later the office of county agricultural agent was established for the purpose of furthering local education in agriculture, and for co-operating with and advising farmers and teachers.<sup>774</sup> Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.<sup>775</sup>

### RECORDS SYSTEM

The records of Allen County began with its creation in 1824. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each respective office.

In 1909 the general assembly established the state board of accounts, which formulates, prescribes, and installs systems of accounting and reporting which are uniform for every public office of the same class.<sup>776</sup> Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax accounting system in the offices of the treasurer and auditor, after a

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<sup>771</sup> Acts 1919; Burns 36-705; Baldwin 8899.

<sup>772</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8703.

<sup>773</sup> Const., art. 8, sec. 1.

<sup>774</sup> Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

<sup>775</sup> Acts 1877; Burns 15-314; Baldwin 5333.

<sup>776</sup> Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

description thereof has been approved by the board of commissioners and certified to, and approved by, the state board of accounts.<sup>777</sup> No system has been established in Allen County under authority of this law.<sup>778</sup>

Whenever it may be necessary for the preservation of the records of any office, it is the duty of the board of commissioners to issue an order directing the officer in charge to copy and transcribe the records.<sup>779</sup>

In event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he must order the proper state officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to reduplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.<sup>780</sup>

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their office.<sup>781</sup> County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by photographic process adopted by the board of commissioners.<sup>782</sup> The photographic method of recording has never been used generally by any Allen County officer.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or mater-

<sup>777</sup> Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

<sup>778</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>779</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>780</sup> 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

<sup>781</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>782</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

ial in any county, city, or other public office, for preservation in the state archives. All public officials must permit such copies to be made.<sup>783</sup>

In 1939 the general assembly created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must determine: (a) What public records, if any, are no longer of official or historical value; (b) what public records are of current official value and should be retained in the office where they are required to be filed; (c) what public records are of official value but are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) what public records are of no apparent official value but do have a historical value. Records of class (a), which occupy space to no purpose in the offices and store rooms of the county, must, three years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the state library three years after the date of the filing of such records, unless they are then in frequent use by the officer having charge of the office in which they are located. In the event of such transfer, the records of class (c) will be added to the archives of the library while those of class (d) will constitute a part of the collection of such library.<sup>784</sup>

An act of 1935 created, in the executive department of the state, a commission on public records, consisting of the governor, secretary of state, state examiner, director of the state library, and director of the historical bureau. This act is almost identical with the act of 1939 creating a commission of public records in each county, except as to the provisions as to what officers shall be ex officio members of the commission.<sup>785</sup>

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<sup>783</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>784</sup> Acts 1939; Burns, 1939 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-10.

See the essay entitled "Commission of Public Records."

<sup>785</sup> Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

## 3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The public square in Fort Wayne, which has been occupied successively by five courthouses, was part of a donation to the county by the original proprietors. Private residences and taverns housed the courts and county offices for the first eight years of the county's existence. The board of commissioners, in 1831, laid plans for a brick courthouse and embodied its construction in three separate contracts—a procedure common enough today but unusual at that time.<sup>1</sup> The first contract, for furnishing the brick, was awarded to John S. Archer on his bid of \$300; the second, for laying the brick and furnishing all necessary materials therefor, was awarded to James Hudson for \$924.75; and the third, embracing all carpenter work, was let to the firm of Hanna & Edsall for \$1,497.<sup>2</sup>

The courthouse was a source of trouble from the beginning. The commissioners informed Mr. Archer that his bricks were not "merchantable" but accepted his first shipment, warning him not to send any more; thereafter, bricks were furnished by Joseph Holman.<sup>3</sup> It was completed, after a fashion, in September 1832 and accepted from Hanna & Edsall in January 1835;<sup>4</sup> but the interior was never wholly finished.<sup>5</sup> The courthouse, situated at the center of the square, was fifty feet square and two stories in height—24' from the ground to the eaves. Above the roof was a steeple 5' or 6' high, and above the steeple a spire, at whose extremity was a "Guilded" iron ball.<sup>6</sup> The lower story contained only the courtrooms, and it was planned to partition the upper story for offices. But this was never done; the upper story was used mainly as a place of public gathering, and political meetings, religious services, and even public entertainments were held there.<sup>7</sup>

The incident of the unmerchantable bricks was only the beginning of the county's trouble with the courthouse. Its construction was unsound, and many expected it to collapse during a severe storm. Even the board of commissioners de-

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<sup>1</sup> Commissioners' Record, A:163, 165.

<sup>2</sup> *Ibid.*, 167.

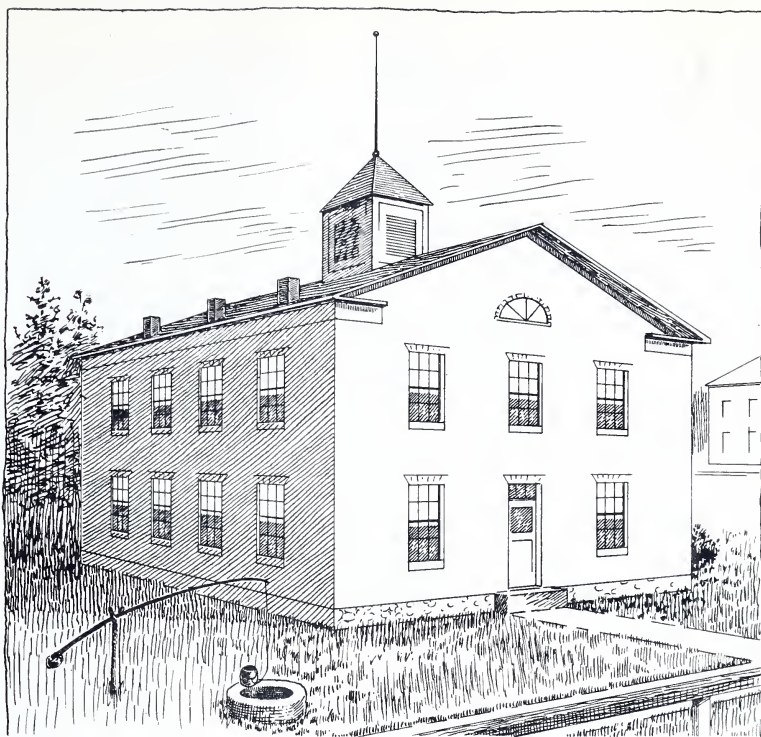
<sup>3</sup> *Ibid.*, 182, 183.

<sup>4</sup> *Ibid.*, 279.

<sup>5</sup> B. J. Griswold, *The Pictorial History of Fort Wayne, Indiana*, (1917), 298.

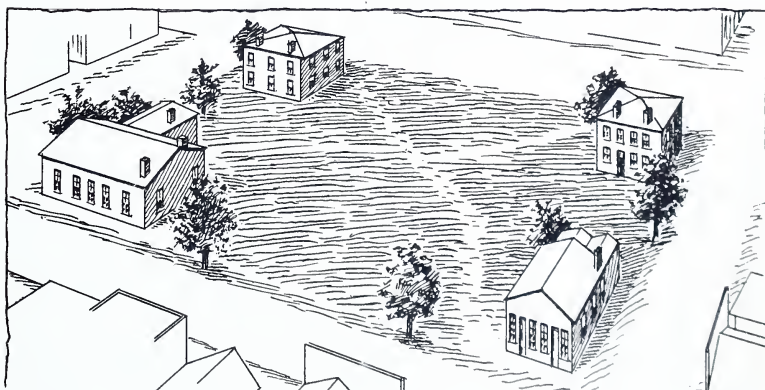
<sup>6</sup> Commissioners' Record, A:163, 176. Griswold (*op. cit.*, 298) states that the courthouse was 40' square.

<sup>7</sup> *Ibid.*



*From an Old Print*

FIRST ALLEN COUNTY COURTHOUSE, 1835-1841



*From an Old Print*

THE FORT WAYNE PUBLIC SQUARE, circa 1844

Left to Right: Courthouse, Recorder's and Sheriff's Offices, Treasurer's and Auditor's Offices, and Clerk's Office.

cided that the clerk's office (in his residence) was a "more comfortable place of holding courts", demonstrating this conviction by holding subsequent meetings there. Later they stated more decisively that the courthouse was "unfit for the accommodation of the [Commissioners'] Court."<sup>8</sup> In 1840, they appointed a committee to investigate whether the courthouse was worth repairing;<sup>9</sup> the committee apparently reported in the negative, since the commissioners, the following year, offered an award of fifty dollars for the best plan of a new courthouse, not to exceed \$15,000 in cost. The prize was won by Samuel Miller with plans drawn by the firm of Porter S. Rice, of Hudson, Ohio,<sup>10</sup> and the plans were filed away unused, for the commissioners had another scheme.

Colonel John Spencer, who formerly had been in charge of the land office, owned a residence and several other buildings on the public square. Anticipating the construction of a new courthouse, the commissioners traded the old courthouse, plus \$300, to Colonel Spencer for his buildings,<sup>11</sup> a bargain which met with the disapproval of the grand jury, who reported:

"On an examination of the Auditors books we find that the County Commissioners H. B. Taylor, Robert Starkweather and David McQuiston have bartered off the Courthouse belonging to said county with one John Spencer for the buildings erected on said ground (or square) for some other frame buildings on said square erected by said Spencer and . . . said County Commissioners caused the Auditor of said Allen County to issue a County order in favor of said Spencer for one hundred and fifty dollars . . . and . . . the said County Commissioners agreed to make and deliver one other County order to said Spencer for the sum of one hundred and fifty dollars . . . all of which this Grand jury believe is injurious to the said County of Allen."<sup>12</sup>

In spite of the grand jury's protest, the arrangement continued. The commissioners called for bids on the construction of a courthouse in December 1842, but after receiving them decided that it was "inexpedient" to build a courthouse at that time; instead, they ordered the construction of a temporary courthouse and an office building.<sup>13</sup> These, with

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<sup>8</sup> Commissioners' Record, B:92.

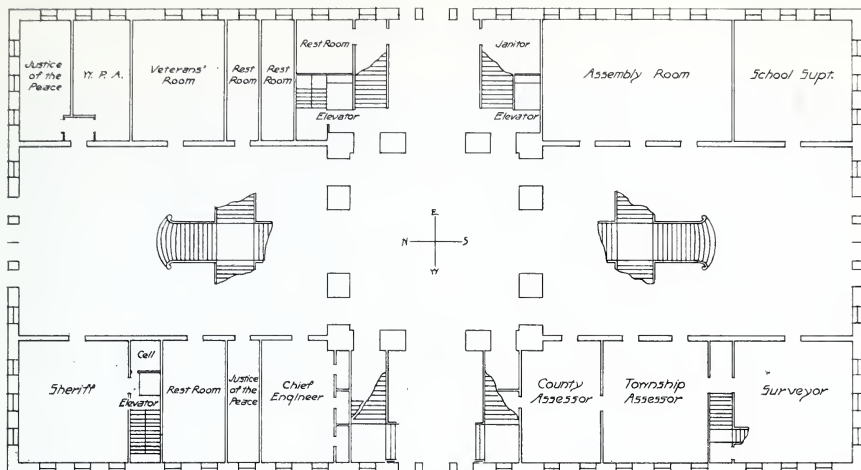
<sup>9</sup> *Ibid.*, 50.

<sup>10</sup> *Ibid.*, 130.

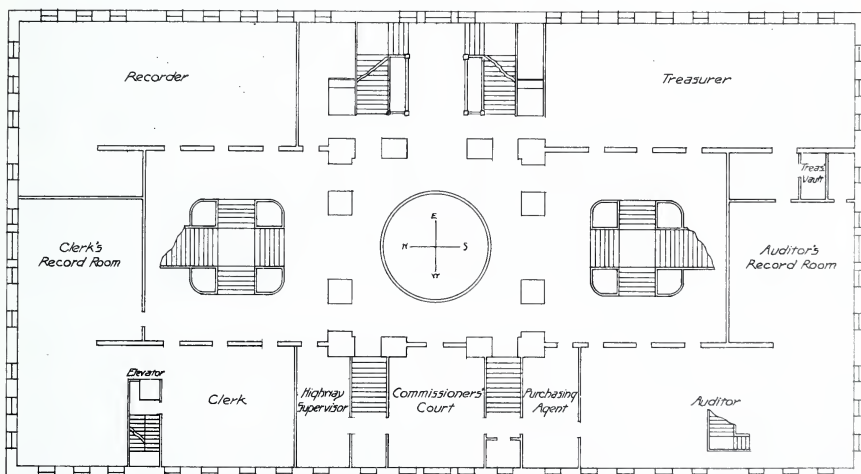
<sup>11</sup> *Ibid.*, 143.

<sup>12</sup> Civil Order Book, D:133.

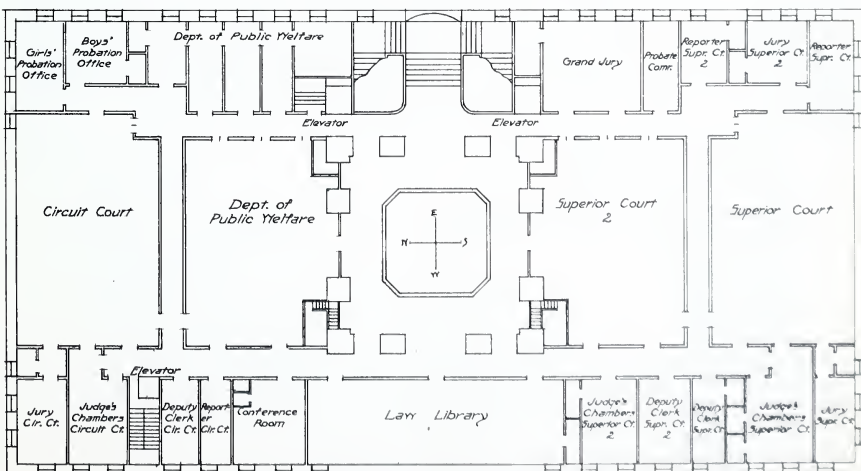
<sup>13</sup> Commissioners' Record, E:207.



1st Floor - Allen County Courthouse



2d Floor - Allen County Courthouse



3d Floor - Allen County Courthouse

the buildings already standing, gave the square the appearance shown in the illustration. The courthouse, which contained a courtroom and two offices, was situated at the southeast corner of the square; the building at the northeast corner of the square was used as the treasurer's and auditor's office; Spencer's former residence at the northwest corner of the square constituted the clerk's office; and the recorder's office and jail were situated at the southwest corner.<sup>14</sup>

The third courthouse, completed in 1847 at a cost of approximately \$15,000, was a two-story brick structure.<sup>15</sup> It was designed merely to house the court and related offices, and most of the county offices continued to occupy the other buildings on the square. When the county courts or the Fort Wayne mayor's court were in session, the commissioners met in the auditor's office.<sup>16</sup> Later new offices were built for the recorder and the clerk;<sup>17</sup> a room in the recorder's building was occupied by the sheriff and the surveyor, after certain unauthorized "squatters" were ordered to remove from the room and take their belongings with them.<sup>18</sup>

The third courthouse could not have been more satisfactory than the first. In 1857, the sum of \$383.49 was spent on repairs,<sup>19</sup> and in 1858 a special tax—fifteen cents per hundred dollars of valuation—was levied to establish a fund for a new courthouse.<sup>20</sup>

In 1859, the courthouse fund had grown to \$7,183.56, and the commissioners increased the tax to twenty cents per hundred dollars.<sup>21</sup> An agent was dispatched to several county seats to procure plans for a courthouse,<sup>22</sup> but the plans thus obtained apparently were unsatisfactory, as were other plans submitted at about the same time. The commissioners re-advertised, specifying that complete plans, specifications, and estimates for a "fire proof Building" were required.<sup>23</sup> Plans submitted by Edwin May were adopted after much deliberation

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<sup>14</sup> Griswold, *op. cit.*, 354.

<sup>15</sup> Griswold, *op. cit.*, 355.

<sup>16</sup> Commissioners' Record, C:130, 323.

<sup>17</sup> *Ibid.*, 191, 331.

<sup>18</sup> *Ibid.*, 388, 389.

<sup>19</sup> *Ibid.*, D:112.

<sup>20</sup> *Ibid.*, 214.

<sup>21</sup> *Ibid.*, 330, 331.

<sup>22</sup> *Ibid.*, 278.

<sup>23</sup> *Ibid.*, 358.

and delay, and the board appointed him supervising architect.<sup>24</sup>

The county advertised for bids and in January 1860 accepted the bid of Samuel Edsall and Company, for \$63,613, which included all the work except furnishings. This brought forth a vigorous protest from F. M. Andrews, a member of the board of commissioners, who declared that the bidders were not "practical builders" and that the price was at least \$18,000 too high. He stated further that he believed that "the whole proceedings from getting up the plan to letting the contract is a farce", hinting darkly at conspiracy, and concluded: "As it is customary to insert a Stone in the building in a conspicuous place with the names of the Commissioners, I hereby forbid the use of my name in connection with it."<sup>25</sup>

Andrews' protest may have been well founded: The contractors built the first story 2' lower than specified in the contract, and an arbitrating committee had to be appointed to determine the cost of raising it.<sup>26</sup> The commissioners discharged Edwin May as supervising architect and gave the position to Samuel McElpatrick.<sup>27</sup> A Chicago architect employed by the board to examine the courthouse reported that certain parts were genuinely weak and that the balance of the work, while substantial, was not of the high quality specified.<sup>28</sup> The courthouse was completed in July 1862, amid controversy as to the cost of "extras" not included in the specifications.<sup>29</sup> The total cost of the building alone was \$74,271, and with furnishings, \$78,000.<sup>30</sup>

It was a brick structure trimmed with stone; its dimensions were 120' by 65', plus the east and west wings, each of which were 40' by 20'. The design was the pseudo-Gothic typical of the period, with a clock-tower above the center of the building. Its height, including the two stories and the tower, was 160'. The several offices scattered over the square were removed when it was completed,<sup>31</sup> and thereafter most of the county offices were maintained in the courthouse, which gave service until 1896, when it was demolished to make way for

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<sup>24</sup> *Ibid.*, 391.

<sup>25</sup> *Ibid.*, 423, 425, 426.

<sup>26</sup> *Ibid.*, E:92, 93.

<sup>27</sup> *Ibid.*, 91, 96.

<sup>28</sup> *Ibid.*, 208-211.

<sup>29</sup> *Ibid.*, 422-424, 427, 428.

<sup>30</sup> Griswold, *op. cit.*, 459.

<sup>31</sup> *Ibid.*

the present courthouse. After its demolition and before the completion of the present courthouse, courts were held in the Saengerbund Building at the corner of Main Street and Maiden Lane.<sup>32</sup>

In 1824, the board of commissioners authorized John Tipton, the county agent, to enter into contract with the "loest bidder" for a county jail.<sup>33</sup> The contract was awarded to David Irwin, Robert Douglas, and William Hood on their bid for \$444. A log building, it stood on the southwest corner of the public square. The walls were three thicknesses of oak timber, the center thickness consisting of upright logs. As usual, criminals were imprisoned in the lower story and debtors in the upper.<sup>34</sup> The grand jury reported in 1826 that the "criminals room" was "not a place of safety", and that the debtors' room was likewise inadequate.<sup>35</sup> The jailor's house, attached to the jail, was built about that time, but nothing seems to have been done in the way of strengthening the jail; the grand jury, the following year, reported more specifically that the doors and locks were insufficient.<sup>36</sup> The jail met with their approval in 1828, except the debtors' room, which was "too open & cold & not strong enough to prevent the escape of prisoners."<sup>37</sup> Tradition justifies the latter criticism, telling how a chronic prisoner for debt was frequently seen on the streets only a few hours after his incarceration—having raised a log or two and walked out of jail.<sup>38</sup>

Others must have escaped in the same or similar manner, for a grand jury report of 1842—the same report which criticized the selling of the courthouse to Spencer—stated that the "criminals department is in a bad condition and has so often been broken and repaired that it is not a place of security for prisoners."<sup>39</sup> Much money was spent on repairs from time to time, until the jail was destroyed by fire in 1847.

The city prison thereafter was used by the county, which

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<sup>32</sup> Robert S. Robertson, *Allen County, Indiana*, published as vols. 2 and 3 of *History of the Maumee River Basin* (1905), 2:55.

<sup>33</sup> Commissioners' Record, A:7.

<sup>34</sup> *Fort Wayne News-Sentinel*, April 8, 1938. Commissioners' Record, A:17.

<sup>35</sup> Civil Order Book, A:79.

<sup>36</sup> *Ibid.*, 109.

<sup>37</sup> *Ibid.*, 119.

<sup>38</sup> Griswold, *op. cit.*, 279. *Fort Wayne News-Sentinel*, April 8, 1938.

<sup>39</sup> Order Book, D:133.

had previously realized the inadequacy of the old jail and was raising funds for a new one through a special tax levy.<sup>40</sup> The contract was awarded to Charles S. French, John B. Coccannour, and Aaron J. Mershon, for \$4,955.34.<sup>41</sup> A brick building with sheriff's residence attached, it was completed in 1852, and broken into during the same year by a gang bent on rescuing a pair of horse thieves. A storm of criticism followed, certain persons maintaining, with some justification, that it had been a waste of money to build a new jail so unsafe. Public opinion was again aroused the following year by the escape of three prisoners, who dug their way from the jail to a cistern and from the cistern to the basement of a neighboring building.<sup>42</sup> Action was taken, and escapes thereafter were less frequent, although not entirely eliminated. Extensive repairs were made in 1857, and occasionally the practice of manacling ("ironing") prisoners was resorted to,<sup>43</sup> as well as the time-honored custom of "guarding" the jail,<sup>44</sup> to see that no prisoners escaped.

In 1872, the board of commissioners authorized the auditor to advertise for bids for constructing a new jail and jailor's residence and awarded the contract to Christian Boseker, who bid \$81,498.<sup>45</sup> The old jail was abandoned the same year. The new jail, a three-story brick structure, was completed and accepted in 1874,<sup>46</sup> and is still in use, having been remodeled from time to time. The total cost of the jail, with furnishings and equipment, was \$92,069.94.<sup>47</sup>

By 1895, the fourth courthouse had become inadequate, and the commissioners advertised for plans for a larger structure. Plans were received and considered over a period of two years, when B. S. Tolan's plans were accepted; meanwhile, the old courthouse had been torn down. In May 1897, the contract for construction was let to James Stewart and Company of St. Louis, Missouri, and the work was completed in 1902, although courts were held in the building as early as 1900. The cost of the building was \$479,336, and with the heating and power plant built at the same time, \$817,553.

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<sup>40</sup> Commissioners' Record, B:285, 323.

<sup>41</sup> *Ibid.*, C:29.

<sup>42</sup> Griswold, *op. cit.*, 403. *Fort Wayne News-Sentinel*, *loc. cit.*

<sup>43</sup> Commissioners' Record, D:133.

<sup>44</sup> *Ibid.*, 169.

<sup>45</sup> *Ibid.*, L:50, 81.

<sup>46</sup> *Ibid.*, M:77.

<sup>47</sup> *Fort Wayne News-Sentinel*, April 8, 1933.

The courthouse is 270' by 134', occupying most of the original public square. The facing is Bedford limestone. The main portion of the building is three stories in height, but the dome above the center of the building, surmounted by a statue 14' high, increases the over-all height to 225'. The interior is finished in marble. County and township offices occupy the first and second floors, while the third floor, known as the "Judiciary Floor" houses the courts and related offices. In the attic is a storage room, where older records are kept. The flooring throughout is marble or granite tile, except in the assessor's office, where it is concrete. Lighting and ventilation are adequately provided, except as otherwise noted below.

A room by room description of the present housing of records follows:

*Board of Commissioners.* Ninety-six percent of the records are in the auditor's office, 2 percent in the highway supervisor's office, and 2 percent in the attic.

*County Council.* All the records are in the auditor's office.

*Clerk of the Circuit Court.* The clerk's office, room 200, is an L-shaped room, 74' by 73', at the northwest corner of the second floor. Steel shelving, of roller and cabinet design, houses 3200' of volumes and 233' of unbound records in steel file boxes 12" deep; somewhat less than 200' of shelving are available for expansion, but the room contains ample space for additional shelving, when necessary. All the clerk's records, with those of the circuit and superior courts, the coroner, the registration offices, and the three election boards, are kept here.

*Recorder.* The recorder's office, room 201, lies at the northeast corner of the second floor, and is 73' by 44'. Twenty-four hundred and twelve feet of shelving house 1010' of volumes and 35' of unbound records in file boxes 12" deep. The remainder of the shelving is available for expansion of the records. All the recorder's records are kept here.

*Circuit Court.* The circuit courtroom, at the north end of the third floor, contains less than 1 percent of the court's records. Four volumes are kept on shelving located along the south wall of the room.

Room 300, a deputy clerk's office, on the west side of the third floor, contains 6' of volumes, arranged on tables, and 14' of unbound records in file boxes 27" deep—1 percent of the records. A few sheriff's records are kept here.

Ninety-eight percent of the records are in the clerk's office and 1 percent in the sheriff's office.

*Superior Court of Allen County.* The courtroom of the superior court of Allen County occupies a room similar to the circuit courtroom, but at the opposite end of the third floor. Measuring 62' by 38', it is equipped with 145' of shelving, housing 55' of volumes and 65' of unbound records in file boxes 10" and 16" deep.

Room 308, on the west side of the third floor, is occupied by a deputy clerk, who serves as clerk of the superior court. Twelve feet of volumes and 20' of unbound records are kept here, comprising records of the court and the sheriff.

Two percent of the records are housed in the courtroom, 2 percent in the deputy clerk's office, room 308, 2 percent in the sheriff's office, and 94 percent in the clerk's office.

*Allen Superior Court No. 2.* The courtroom lies in the central portion of the third floor. Fifty-five by 41', it is equipped with 170' of steel shelving, housing about 20' each of bound and unbound records, the latter in file boxes 10" and 18" deep. A portion of the records are sheriff's records.

Across the corridor from the courtroom is the office of the deputy clerk of the court, room 304. In this room, which is 20' by 12', 2' of volumes and 29' of unbound records are kept. The volumes are lying on the tables, no shelving being available.

One percent of the records is in the courtroom and 2 percent in room 304. The remainder is in the clerk's office.

*Sheriff.* The sheriff's office, room 100, at the northwest corner of the first floor, is 32' by 29', and contains 214' of steel shelving. Two hundred feet of volumes and 7' of unbound records comprising records of the sheriff, the circuit court, the Superior Court of Allen County, and the board of election commissioners, are kept here.

An office, 20' by 20', in the southeast corner of the jail houses 2 volumes and 4 file boxes of sheriff's records.

Seventy percent of the records are in the sheriff's office; 1 percent in the jail office; 2 percent in the deputy clerk's office, room 300; 7 percent in the deputy clerk's office, room 308; 2 percent in the courtroom of Allen Superior Court No. 2; and the remaining 11 percent in the attic.

*Coroner.* All the records are in the clerk's office.

*County Assessor.* Room 106, on the west side of the first floor, is occupied by the assessor and houses a majority of his records, as well as a large portion of those of the auditor. The room is 31' by 23' and contains 506' of shelving, on which are 450' of volumes and 6' of unbound records in file

boxes 12" deep. There is space for the installation of additional shelving, when necessary. Ninety-eight percent of the records are here, the other 2 percent being housed in the auditor's office.

*County Board of Review, County Board of Tax Adjustment, Board of Finance, County School Fund Board.* All the records are in the auditor's office.

*Treasurer.* The treasurer's office, room 203, is situated at the southeast corner of the second floor. Measuring 82' by 32', it houses 320' of volumes and 250' of unbound records in file boxes 19" deep. The present shelving (constructed of steel) will permit several years expansion. Fifty percent of the records, as well as a few auditor's records, are housed here.

The treasurer's vault, a small room adjoining the office, houses 2 percent of the records, consisting of 16 cartons of unbound material. Thirty-eight percent of the records are in the auditor's office, and 10 percent are in the attic.

*Auditor.* The auditor's office occupies room 208, an L-shaped room 74' by 73' at the southwest corner of the second floor. It is equipped with 1743' of steel shelving—mostly of roller design—housing 1458' of volumes and 52' of unbound records in file boxes 13" and 18" deep. Additional shelving, when needed, can be installed. Fifty-one percent of the records are housed here, 43 percent in the assessor's office, and 6 percent in the attic. Four file boxes are kept in the treasurer's office.

*Registration Officer, Board of Primary Election Commissioners, County Board of Canvassers.* All the records are in the clerk's office.

*County Board of Election Commissioners.* Eighty-nine percent of the records are in the clerk's office, 7 percent are in the sheriff's office, and 4 percent in the attic.

*County Board of Education.* The record kept by the board comprises 2 volumes, of which one is in the auditor's office, while the other—the current volume—is kept in the residence of J. J. Gerig, a member of the board, in Grabill.

*County Superintendent of Schools.* Room 107, at the southeast corner of the first floor, is occupied by the superintendent of schools and houses all his records. Thirty-two feet square, the office is equipped with filing cabinets, in which 44' of unbound records are housed. Five feet of volumes are arranged on a table.

*County Health Officer.* All the records are kept at the office of the incumbent, in his residence at 1222 East State Street, Fort Wayne.

*Public Health Nurses.* The office of the public health nurses is located in room 216 in the Central Building at Wayne and

Harrison Streets, Fort Wayne. Forty feet of unbound records—all the records of the office—are housed here. The present equipment is adequate and will permit expansion.

*County Department of Public Welfare.* The welfare office is located in the central portion of the third floor. No shelving has been constructed in the room, whose dimensions are 32' by 15'. The unbound records are in file boxes 6" and 12" deep. Ample space is available in the room for expansion of the records of the department, all of which are housed here.

*Surveyor.* The office is located in room 110, at the southwest corner of the first floor. Similar in size to the superintendent's office across the hall, the room is equipped with 32' of shelving, on which are 25' of volumes and 7' of unbound records in file boxes 18" deep. A small amount of space is available for expansion of the records, which will also involve the installation of more shelving. All the records are kept in this room.

*County Highway Supervisor.* Room 202, on the west side of the second floor adjacent to the clerk's office, is occupied by the highway supervisor and houses all his records, as well as a few of those of the board of commissioners. Measuring 32' by 15', it is equipped with steel shelving—30' along the north and south walls—carrying 10' of volumes; 53' of unbound records are housed in file boxes and drawers of varying depths. The present equipment will permit expansion of the records.

*County Agricultural Agent.* The agricultural agent's office occupies room 324 in the Federal Building—a room 14' by 10'. All the agent's records, consisting of 12' of unbound records, are kept in filing cabinets. The equipment is adequate for the housing of present and future records. All the agent's records are housed here.

*Purchasing Agent.* Room 206, on the west side of the second floor adjoining the auditor's office, is the purchasing agent's office. Similar in size to the highway supervisor's office described above, it is furnished with 60' of steel shelving, which houses 4' of volumes and 50' of unbound records. Eighty-seven percent of the records are in this office and 13 percent in the attic.

*Storage Room.* Older records are housed in a room in the attic, reached by a stairway from the welfare office on the floor below. The storage room is 20' square with a 9' ceiling and is fairly well lighted, but poorly ventilated. Though there is space for shelving, none has been installed, and the 80' of volumes and 50' of unbound records which the room

contains are piled indiscriminately on the floor, around the walls; the unbound records, for the most part, being kept in boxes and cartons. Records of the following offices are housed in this room in the indicated percentages: Board of commissioners, 2 percent; sheriff, 11 percent; treasurer, 10 percent; auditor, 6 percent; board of election commissioners, 4 percent; and purchasing agent, 13 percent.

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## 5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

Acts	[Session] Laws of the State of Indiana (commonly referred to by binder's title, <i>Acts</i> )
agr. agt.	agricultural agent('s)
alph.	alphabetical(ly)
App.	Appellate court reports of the State of Indiana
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)
aud.	auditor('s)
Baldwin	Baldwin, William Edward, editor, <i>Baldwin's Indiana Statutes Annotated 1934.</i>
bd.	board
bdl.	bundle
bk.	book
Blackf.	Blackford Reports
bldg.	building
bsmt.	basement
Burns	Burns, Harrison, editor, <i>Annotated Indiana Statutes.</i>
c	copyright (before date)
C. C.	County Courthouse
cp.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comr.	commissioner(s')
Const.	Constitution of Indiana (refers to pres- ent constitution unless date follows)
cor.	coroner
ct. rept.	court reporter
diam.	diameter
et	and
et al.	et alii--and others
et seq.	et sequentia--and following

<i>ex rel.</i>	<i>ex relatione</i> —upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
ff.	following
hdw.	handwritten
high. sup.	highway supervisor('s)
H. J.	House Journal (Indiana House of Representatives)
hlth. offr.	health officer('s)
<i>ibid.</i>	<i>ibidem</i> (same reference as that immediately foregoing)
Ind.	Indiana: Indiana Reports (when preceded by the volume number, reference is to the official state supreme court reports)
insp.	inspector
juv.	juvenile
Laws Ind. Terr.	<i>Laws of Indiana Territory, The: 1801-1809, 1809-1816.</i> (See Bibliography, under Philbrick, Francis S. and Ewbank, Louis B.)
Laws N. W. Terr.	<i>Laws of the Northwest Territory, The: 1788-1800.</i> (See Bibliography, under Pease, Theodore C.)
lb.	pound
<i>loc. cit.</i>	<i>loco citato</i> —in the place cited. (After the name of book or article, refers to previous page(s) cited in the same work)
mi.	mile
n.	note
n. d.	no date
N. E.	North Eastern Reporter (judicial decisions). 2d-Second series.
no., nos.	number(s)
num.	numerically
off.	office
offr.	officer
<i>op. cit.</i>	<i>opere citato</i> —in the work cited. (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem.</i>	<i>pro tempore</i>

prob. comr.	probate commissioner
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pur. ag.	purchasing agent
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. Laws	Revised Laws of Indiana
Rev. Stat.	Revised Statutes of Indiana
rm.	room
sec., secs.	section(s)
sher.	sheriff('s)
<i>sic</i>	thus (indicating expression, misspelling, ect., are the same as in the original)
S. J.	Senate Journal (Indiana Senate)
Spec. Sess.	Special Session
sta.	station
stat.	statutes
stor.	storage
sub-bsmt.	sub-basement
suppl.	supplement
supr. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
twp., twps.	township(s)
U. S.	United States
U. S. C.	United States Code
v.	versus
vol., vols.	volume(s)
vt.	vault
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, in dimensions

## EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

Entries are grouped under a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

*Entry number.* The entries are numbered consecutively.

*Exact title* (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by The Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

*Dates* of the period covered by the record, showing inclusive beginning and ending dates by years only. Missing records are indicated by a break in the dates. A dash in place of an ending date denotes an open record. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with day, month, and year. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

*Quantity and labelling*, given in chronological order wherever possible.

*Variations* in title. Current or most recent title used as entry title; if former titles vary, they are shown.

*Changes in keeping records.* Occasionally the county record is discontinued or is kept by some other authority—state or other county office.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of *arrangement*: Chronological, topical, or other system.

Method of *indexing* pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of *recording*: Handwritten, typewritten, or printed. Modern records are almost exclusively in printed form, filled in by hand or typewritten as stated in entry. Maps and plats are drawn, blueprinted, or printed.

*Condition*. Omitted if good or excellent.

*Number of pages* averaged for a series.

*Size* of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

*Location*. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified either in the entry or in the essay on the legal status of the office.

III. Cross-referencing may occur in three places:

In the title paragraph it is used to show a complete series where another method of keeping the record was used in the past or is used at present; also, to show other records with which the record is combined.

In the description paragraph, to show the contents of volumes or files containing unrelated records.

In the third paragraph, to prior and subsequent records or allied subjects; to subjects on which supplementary information may be found in other entries; and to records which have related functions.

## PART B. COUNTY OFFICES AND THEIR RECORDS

### I. BOARD OF COMMISSIONERS

The board of commissioners of Allen County is a statutory body composed of three members,<sup>1</sup> elected for terms of three years, each term commencing in a different year.<sup>2</sup> Each commissioner holds office until his successor has been elected and qualified.<sup>3</sup> He receives a certificate of election from the clerk of the circuit court, and is not commissioned by the governor.<sup>4</sup> The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.<sup>5</sup> A commissioner must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;<sup>6</sup> and, while holding the office of county commissioner, he must reside within the county, and must not hold any other lucrative office.<sup>7</sup> Each commissioner must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup> He receives a regular salary of \$1,920 per year.<sup>9</sup>

For sufficient legal grounds, any county commissioner may be removed by Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>10</sup> If any commissioner is convicted of

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<sup>1</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>2</sup> 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218.

<sup>3</sup> Const., art. 15, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

<sup>4</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

<sup>5</sup> 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

<sup>6</sup> Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

<sup>7</sup> Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

<sup>8</sup> Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5219.

<sup>9</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>10</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin

a felony, the judgment of conviction must declare his office vacant.<sup>11</sup>

Any vacancy in the office of county commissioner, or any prospective vacancy caused by death or resignation before time for commencement of the term of a commissioner-elect, is filled at any time by appointment by the commissioners in office. In the event of a tie vote, the auditor casts the deciding vote.<sup>12</sup>

Ever since April 1, 1824 (the time of the creation of the county), the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From September 6, 1824 until January 1, 1829, county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been vested exclusively in the county council.<sup>13</sup>

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Allen." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.<sup>14</sup> In legal contemplation, the board is the county.<sup>15</sup>

The principal functions of the board are: Control of county property; allowance of claims against the county;<sup>16</sup> to provide office rooms for county officers;<sup>17</sup> construction and

1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>11</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>12</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>13</sup> Rev. Laws 1824, ch. 15, 16; ch. 18, secs. 6, 9. Acts 1826-27, ch. 13. Acts 1827-28, ch. 13. Acts 1828-29, ch. 13. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, art. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Const., art. 6, sec. 10. (1934) *Snider v. State ex rel. Leap*, 206 Ind. 474, 190 N. E. 178.

<sup>14</sup> 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

<sup>15</sup> *Dice v. County Board of Finance*, 99 Ind. App. 405, 192 N. E. 770.

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

<sup>17</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241.

repair of roads,<sup>18</sup> bridges, culverts,<sup>19</sup> and county buildings;<sup>20</sup> purchase of materials and supplies;<sup>21</sup> exercise of the power of eminent domain;<sup>22</sup> preparation of annual budget estimates;<sup>23</sup> issuance of bonds;<sup>24</sup> establishment of new townships and change of township<sup>25</sup> and precinct<sup>26</sup> boundary lines; to provide rooms, booths, ballot boxes, and voting machines for elections;<sup>27</sup> establishment and maintenance of libraries<sup>28</sup> and hospitals;<sup>29</sup> inspection of county jail<sup>30</sup> and poor asylum;<sup>31</sup> subscription to and preservation of newspapers printed in the county;<sup>32</sup> maintenance of standards of weights and measures;<sup>33</sup> reproduction of mutilated or decayed records;<sup>34</sup> regulation of traffic on highways;<sup>35</sup> authorization of payment of bounties;<sup>36</sup> offering rewards in case of murder or lynching;<sup>37</sup> enforcement of

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<sup>18</sup> Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>19</sup> Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

<sup>20</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

<sup>21</sup> Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

<sup>22</sup> Acts 1937; Burns, 1929 suppl., 26-640; Baldwin, 1937 suppl., 5235-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

<sup>23</sup> Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

<sup>24</sup> 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

<sup>25</sup> Acts 1859; Burns 26-701; Baldwin 16055. Acts 1919; Burns 26-705; Baldwin 16059. Commissioners' Record A:2, 49, 96, 125, 155, 170, 184, 185, 195.

<sup>26</sup> Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7039 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>27</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>28</sup> Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

<sup>29</sup> Acts 1903; Burns 22-3201; Baldwin 4507.

<sup>30</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>31</sup> 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

<sup>32</sup> 1 Rev. Stat. 1852; Burns 26-626; Baldwin 5285.

<sup>33</sup> 1 Rev. Stat. 1852; Burns 69-101.

<sup>34</sup> Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

<sup>35</sup> Acts 1919; Burns 36-706; Baldwin 8899.

<sup>36</sup> 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105; 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

<sup>37</sup> Acts 1899; Burns 26-1104; Baldwin 5290.

its orders;<sup>38</sup> appointment of highway supervisor,<sup>39</sup> health officer,<sup>40</sup> public health nurses,<sup>41</sup> and purchasing agent;<sup>42</sup> employment of a county attorney<sup>43</sup> and tax ferrets;<sup>44</sup> removal of a delinquent county treasurer after suit on his official bond has been commenced;<sup>45</sup> and appointment of successors in case of any vacancy in the offices of auditor, clerk of circuit court, coroner, county assessor, surveyor, sheriff, and treasurer.<sup>46</sup>

Before 1909 the board of commissioners audited the books and accounts of all officers handling county funds. Since 1909 such duties have been performed by the state examiner instead of the board of commissioners.<sup>47</sup>

The board of commissioners has always had the power to establish, construct, and maintain roads. From 1879 until 1913 the board constituted, ex officio, a board of turnpike directors for the management and control of all free turnpikes in the county.<sup>48</sup> From 1913 until 1933, county roads were in charge of a superintendent of highways appointed by the board.<sup>49</sup> Since 1933 the supervision of county roads has been a duty of the surveyor unless the board appoints a county highway supervisor.<sup>50</sup> There is a county highway supervisor in Allen County.<sup>51</sup>

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.<sup>52</sup> Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the

<sup>38</sup> 1 Rev. Stat. 1852; Burns 26-6-9; Baldwin 5233.

<sup>39</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>40</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>41</sup> Acts 1905; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

<sup>42</sup> Acts 1921; Burns 26-1602; Baldwin 5207.

<sup>43</sup> Acts 1917; Burns 10-3-03; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

<sup>44</sup> Acts 1907; Burns 64-2800; Baldwin, 1935 suppl., 15696-1.

<sup>45</sup> 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>46</sup> 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>47</sup> 1 Rev. Stat. 1852; Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-676; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview on May 18, 1939 with E. P. Brennan, state examiner.

<sup>48</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

<sup>49</sup> Acts 1913, ch. 330, sec. 1.

<sup>50</sup> Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

<sup>51</sup> See the separate essay on the office of the county highway supervisor.

<sup>52</sup> Acts 1899; Burns 26-550; Baldwin 5221.

recorder, respectively.<sup>53</sup> Any two members constitute a quorum to do business.<sup>54</sup> The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.<sup>55</sup> All meetings of the board are open to the public.<sup>56</sup> The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.<sup>57</sup> Whenever, in the trial of any cause, two or more members of the board are disqualified, the circuit judge appoints special commissioners to act in their places.<sup>58</sup>

Though appeals may be taken to Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2 to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.<sup>59</sup> Appeals are authorized in proceedings concerning claims against the county,<sup>60</sup> removal of county seat,<sup>61</sup> establishment or vacation of public ferry,<sup>62</sup> and highway matters.<sup>63</sup>

The auditor, as clerk of the board, attends its meetings, keeps a record of the proceedings, and preserves in his office all the books and papers touching the business of the county.<sup>64</sup>

#### PROCEEDINGS AND REPORTS

##### 1. COMMISSIONERS' DOCKET, 1860—. 7 vols.

Record of documents filed for action by board of commissioners, showing date of filing, nature of document, names of principals, and action taken. Arr. chron. by dates of filing. No index. Hdw. 350 pp. 16 x 12 x 2½. Aud. off.

<sup>53</sup> Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

<sup>54</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>55</sup> 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>56</sup> 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

<sup>57</sup> 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

<sup>58</sup> Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

<sup>59</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1923; Burns 4-603; Baldwin 1453. 1 Rev. Stat. 1852; Burns 26-901. State ex rel. Starry v. Board of County Comrs., 136 Ind. 207, 35 N. E. 1100.

<sup>60</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>61</sup> Acts 1885 (Spec. Sess.); Burns 26-410.

<sup>62</sup> 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

<sup>63</sup> Acts 1905; Burns 36-1501; Baldwin 8858.

<sup>64</sup> 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

2. COMMISSIONERS' RECORD, 1824-. 47 vols. (A-Z, 1-21). Record of meetings and proceedings of board of commissioners on all county business, showing date of meeting, names of members present, nature of business discussed, and action taken. Also contains: Miscellaneous Record, 1824-71, 1904-, entry 6; Commissioners' Docket, Liquor Licenses, 1824-1912, entry 10; Claim and Allowances, 1824-1919, entry 20. Arr. chron. by dates of meetings. For indexes, see entries 3, 4, 33, 37. 1824-1901, hdw.; 1902-, typed. 450 pp. 18 x 13 x 3. Aud. off.

3. INDEX TO COMMISSIONERS' RECORDS AND PAPERS, 1824-. 9 vols.

Index to Commissioners' Record, entry 2, showing date of filing, subject of business discussed, and volume and page reference to recording. Arr. alph. by subjects of business discussed. Hdw. 350 pp. 18 x 12 x 3. Aud. off.

4. COMMISSIONERS' MISCELLANEOUS ORDERS, 1824-. 1 f. b. Card file index to miscellaneous orders in Commissioners' Record, entry 2, showing date of filing, names of principals, subjects of business, and volume and page reference to recording. Arr. alph. by subjects of business. Typed. 6 x 8 x 19. Aud. off.

5. COMMISSIONERS' COURT PAPERS, 1824-. 97 f. b. Original documents filed for action by board of commissioners, showing date of filing, nature of action, names of principals, and action taken. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Aud. off.

6. MISCELLANEOUS RECORD, 1872-1903. 4 vols. (1-4). 1824-71, 1904- in Commissioners' Record, entry 2. Record of miscellaneous instruments, including articles of agreement, bonds, deeds to county property, contracts, treasurer's annual reports, resignations, sale of school lands, road petitions, and appraisers' reports, showing dates of instrument and recording, title of instrument, names of principals, and amount of consideration. Arr. chron. by dates of recording. No index 1872-90; 1891-1903, indexed alph. by titles of instruments. Hdw. 500 pp. 18 x 17 x 2½. Aud. off.

7. LEGAL NOTICES, 1899-. 3 vols. Newspaper clippings of notices published in county newspapers, showing dates of publication and notice, names of principals and publication, and nature of notice. Arr. chron. by dates of notices. No index. Ptd. 200 pp. 14 x 11 x 1½. Aud. off.

8. COMMISSIONERS' RECORD TUBERCULOSIS HOSPITAL, 1914-. 3 vols.

Record of proceedings of board of commissioners for construction, maintenance and operation of Irene Byron Sanatorium, including plans, specifications, bids, contracts, bond issues, claims and allowances, showing date of meeting, details of plans and specifications, amounts of bond issue, bid, contract and allowance, and names of bidder, contractor and claimant. Arr. chron. by dates of meetings. No index. Typed. 500 pp. 18 x 13 x 3. Aud. off.

9. COMMISSIONERS' PAPERS PERTAINING TO T. B. [Tuberculosis] HOSPITAL, 1917-. 6 f. b.

Original documents filed for action by board of commissioners for construction, maintenance and operation of Irene Byron Sanatorium, including plans, specifications, appropriations, bids, contracts, contractors' bonds, and claims, showing same information as entry 8. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

10. COMMISSIONERS' DOCKET, LIQUOR LICENSES, 1913-18. 2 vols. (1, 2). Discontinued by an act of 1918. 1824-1912 in Commissioners' Record, entry 2.

Record of actions and proceedings on applications to retail alcoholic liquors, showing dates of application, remonstrance, publication of notice and action, names of applicant, attorney, witnesses and remonstrators, location and description of place of business, and decision of board. Arr. chron. by dates of actions. No index. Hdw. 275 pp. 18 x 13 x 2½. Aud. off.

11. RECORD OF PROCEEDINGS FOR COURTHOUSE, 1895-1900. 1 vol.

Record of meetings and proceedings for construction of new courthouse, date of meeting, names of citizens present, nature of subjects discussed, action taken, and transcripts of proposals, bids and contracts. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. Hdw. 638 pp. 18 x 13 x 3. Aud. off.

12. [COURTHOUSE DEDICATION REGISTER], 1902. 1 vol.

Roster of local and visiting people present for new courthouse dedication, showing date of dedication, names of county officials, speakers and people attending, and schedule of exercises. No orderly arr. No index. Hdw. 200 pp. 19 x 14 x 1. Aud. off.

## BOND ISSUES

## 13. RECORD OF BONDS AND COUPONS, 1897-. 7 vols.

Record of bond issues to finance county expenditures, showing dates of issue, sale, maturity and redemption, number, amount and purpose of bond, rate of interest, and name of purchaser. Arr. chron. by dates of issues. No index. Hdw. 300 pp. 9 x 13 x 1. Aud. off.

## 14. REDEEMED BONDS AND COUPONS, 1897-. 135 f. b.

Original bonds and coupons redeemed, showing dates of issue, maturity and redemption, number, amount and purpose of bond, rate of interest, and name of purchaser. Arr. chron. by dates of redemption. No index. Ptd. 11 x 5 x 14. Aud. off.

## 15. MACADAM ROAD BOND RECORD, 1907-. 3 vols. (1-3).

Record of redemption of macadam road bonds and coupons, showing dates of issue, sale and redemption, numbers and amounts of bonds and coupons, title of bond, and names of purchaser and road. Arr. chron. by dates of sales. Indexed alph. by titles of bonds. Hdw. 150 pp. 17 x 17 x 2. Aud. off.

## 16. ROAD AND DITCH BONDS, 1913-31. 2 vols.

Record of bond issues for construction and maintenance of roads and ditches, showing dates of issue and sale, names of road, ditch and purchaser, amounts of bond and coupons, amount redeemed, and balance outstanding. Arr. by names of roads and ditches. No index. Hdw. 466 pp. 14 x 9 x 1½. Aud. off.

## BIDS AND CONTRACTS

## 17. BIDS AND CONTRACTS, 1925-. 6 f. b. Title varies:

Miscellaneous Contracts, 1925-30, 3 f. b.

Bids submitted, contracts executed, and bonds posted by contractors for furnishing labor and materials for county, showing dates of bid, contract and bond, names of bidder, contractor and sureties, amounts of bid, contract and bond, and itemized statement of labor and materials. Arr. chron. by dates of contracts. No index. Typed. 11 x 5 x 14. Aud. off.

## 18. DITCH SALE RECORD, 1879-1907. 7 vols. (A-E, and 2 vols. not labelled).

Record of contracts let for construction and maintenance of ditches, showing dates of bid and contract, names of ditch, property owner and ditch, number of cubic yards to be excavated, location and description of property assessed, estimated cost per cubic yard for excavation, and amount of assessment levied. Arr. alph. by names of ditches. No index. Hdw. 192 pp. 16 x 12 x 2½. Aud. off.

19. BIDS AND CONTRACTS FOR NEW ALLEN COUNTY COURTHOUSE, 1895-1900. 1 f. b.

Bids submitted, contracts executed, and bonds posted by contractors for construction and furnishing material and equipment for new courthouse, showing dates of bid, contract and bond, names of bidder, contractor and sureties, general specifications of building, materials and equipment, and amounts of bid, contract and bond. Arr. chron. by dates of contracts. No index. Hdw. 11 x 5 x 14. Aud. off.

CLAIMS AND ALLOWANCES

20. CLAIMS AND ALLOWANCES, 1920-. 5 vols. 1824-1919 in Commissioners' Record, entry 2.

Record of claims filed and allowances granted by board of commissioners, showing dates of claim and allowance, claim, appropriation and order or warrant numbers, name of claimant, and amount of claim. Arr. chron. by dates of allowances. No index. Typed. 400 pp. 16 x 16 x 1½. Aud. off.

For original claims, see entry 23.

21. SOLDIERS BURIAL RECORD, 1889-. 7 vols.

Record of expenditures for burial of soldiers, sailors and marines, showing dates of discharge, death and burial, names of soldier, sailor or marine, age, occupation and service record of deceased, place of burial, and amount of costs. Arr. chron. by dates of burials. No index. Hdw. 300 pp. 18 x 13 x 2. Aud. off.

For other military records, see entries 22, 82, 128, 129.

22. SOLDIERS PAPERS, [Claims], 1862-1914. 10 f. b. 1915- in Allowances, entry 23.

Township trustees' certificates of assistance granted soldiers, sailors, marines and dependents and of expenditures for burial of soldiers, sailors and marines, showing dates of certificate, filing, enlistment, discharge, death and burial, names of soldier, sailor or marine and dependents, service record of deceased, amount of assistance given, and amount of cost for burial. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Aud. off.

For other military records, see entries 21, 82, 128, 129.

23. ALLOWANCES, 1915-. 257 f. b.

Original claims filed for allowance by board of commissioners, showing dates of claim, filing and allowance, name and address of claimant, nature and amount of claim, and claim, warrant and appropriation numbers. Also contains: Soldiers Papers

[Claims], 1915-, entry 22. Arr. chron. by dates of allowances. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

For record of allowances, see entries 2, 20.

24. INSANITY INQUESTS. [Claims], 1900-. 11 f. d.

Original claims presented to board of commissioners for sanity inquests, showing dates of inquest, claim and payment, names of patient and claimant, and nature and amount of claim. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14. Aud. off.

For record of insanity inquest claims, see entry 25.

25. INSANE AND INQUEST ALLOWANCES, 1914-. 7 vols. (5-11).

Record of claims presented and allowances made for sanity and coroner's inquests, showing dates of inquest, claim and allowance, names of patient, deceased and claimant, and number, nature and amount of claim. Arr. alph. by names of patients or deceased. No index. Hdw. 550 pp. 18 x 13 x 3. Aud. off.

For original insanity inquest claims, see entry 24; coroner's inquest claims, see entry 28.

26. PAID CLAIMS, 1914-. 46 f. b. Title varies: Highway Bills, 1914-33, 22 f. b.

Claims filed and allowed for materials and labor for maintenance of highways, showing dates of claim, filing and allowance, claim, appropriation order or warrant number, nature and amount of claim, and name of claimant. Arr. chron. by dates of allowances. No index. Hdw. 11 x 5 x 14. 22 f. b., 1914-33, aud. off.; 24 f. b., 1934-, high. sup. off.

For record of highway claims, see entries 2, 20.

27. TUBERCULAR HOSPITAL ALLOWANCES, 1917-. 45 f. b.

Claims filed with and allowed by board of commissioners for operating expenses of Irene Byron Sanatorium, showing dates of claim and allowance, name and address of claimant, amounts and numbers of claim and warrant, and nature of claim. Arr. chron. by dates of allowances. No index. Hdw. 11 x 5 x 14. Aud. off.

For record of tuberculosis hospital claims, see entries 2, 20.

28. CORONER'S INQUESTS [Claims], 1926-. 6 f. b.

Original claims presented to board of commissioners for coroner's inquests, showing dates of inquest, claim and payment, names of deceased and claimant, and nature and amount of claim. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14. Aud. off.

For record of coroner's inquest claims, see entry 25.

29. SHERIFF'S ALLOWANCES FOR TRANSPORTATION OF PRISONERS,  
1926-. 1 f. b.

Claims filed and allowed sheriff for mileage in transporting prisoners to penal and correctional institutions, showing dates and amounts of claim and allowance, names of sheriff, prisoner and institution, claim and warrant numbers, itemized statement of miles traveled, and rate per mile. Arr. chron. by dates of allowances. No index. 11 x 5 x 14. Aud. off.

For record of sheriff's claims, see entry 20.

30. POOR RELIEF CLAIMS AND ALLOWANCES, 1928-. 3 f. b.  
16 cartons.

Original claims submitted to board of commissioners for merchandise and services furnished to indigent persons with township trustees' original relief orders attached, showing dates and amounts of order and claim, names of trustee, indigent and claimant, and statement of merchandise furnished or services rendered. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14; cartons, 9 x 12 x 24. 3 f. b., 1928-31, 1938-, aud. off.; 16 cartons, 1932-37, attic stor. rm.

For record of poor relief claims, see entry 20.

PUBLIC IMPROVEMENTS

(See also entries 319-322, 375-377)

ROADS (see also entries 493-495)

31. COMMISSIONERS' RECORD OF COUNTY UNIT ROADS, 1824-65,  
1894-1907, 1919-30. 6 vols. Title varies: Road  
Record, 1824-65, 1 vol.; Road Improvement Record,  
1894-1907, 3 vols.

Record of actions and proceedings for construction and maintenance of highways, showing transcripts of petitions, surveys, viewers' reports and specifications, dates of meeting, petitions, survey, reports and publication of notices, names of road, petitioners, viewers, surveyor, bidders, contractor and publication, amounts of bond issues, bids and contracts, estimate of cost for construction or repair, and location and description of road. Arr. by names of roads, thereunder chron. by dates of meetings. No index. 1824-65, 1894-1907, hdw.; 1919-30, typed. 300 pp. 19 x 13 x 2. Aud. off.

32. MISCELLANEOUS ROAD PAPERS, 1825-. 76 f. b.

Original documents filed in actions for construction and maintenance of roads, including petitions, remonstrances, plans, specifications, viewers' reports, bids, contracts and contractors' bonds, showing dates of document and filing, names of

petitioners, remonstrators, viewers, bidder, contractor and road, amounts of bid, contract and contractor's bond, location and description of road, and packet number containing documents. Arr. num. by packet nos. For index, see entry 33. Hdw. 11 x 5 x 14. Aud. off.

33. INDEX TO TOWNSHIP [and County] ROADS, 1824-. 5 f. b. Card file index to road matters in Commissioners' Record, entry 2, and Miscellaneous Road Papers, entry 32, showing date of filing, nature of document, name and location of road, volume and page reference to recording, and packet numbers containing documents. Arr. alph. by names of roads. No index. Typed. 6 x 8 x 19. Aud. off.

34. COMMISSIONERS MACADAM ROAD CONSTRUCTION, 1913-31. 5 vols. Last entry 1931.

Minutes of meetings of board of commissioners for construction and maintenance of macadam roads, showing date of meeting, names of road and members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by names of roads. Typed. 400pp. 18 x 12 x 4. Aud. off.

DITCHES (see also entries 141, 148, 488-492, 494)

35. DITCH RECORD, 1874-. 14 vols. Title varies: Record of Ditch Reports, 1882-1906, 10 vols.

Minutes of actions and proceedings of board of commissioners for construction and maintenance of ditches, showing dates of action, transcripts of petitions, remonstrances, reports and specifications, names of petitioners, remonstrators, engineers, viewers, commissioners, property owners and ditch, location and description of ditch, and amounts of cost of construction and assessments levied. Arr. chron. by dates of actions. No index. 1874-1903, hdw.; 1904-, typed. 18 x 13 x 3. Aud. off.

36. DITCH PAPERS, 1876-. 86 f. b. 1824-75 in Commissioners' Court Papers, entry 5.

Original documents filed in ditch actions, including petitions, remonstrances, viewers' appointments and reports, specifications, estimates of cost, contractors' bonds and proofs of publication, showing dates of document and filing, document number, names of principals, township and ditch, and location and description of ditch. Arr. by twps., thereunder num. by document nos. For index, see entry 37. Hdw. and typed. 11 x 5 x 14. Aud. off.

37. CARD FILE INDEX TO TOWNSHIP DITCHES, 1867-. 3 f. b. Partial index to ditch proceedings in Commissioners' Record,

entry 2, and Ditch Papers, entry 36, showing dates of filing and action, names of township and ditch, volume and page reference to recording, and instrument and file box number. Arr. by twps., thereunder alph. by names of ditches. Typed. 6 x 8 x 19. Aud. off.

38. DITCH PETITIONS AND BONDS, 1881-1906. 4 vols. Discontinued by an act of 1905.

Record of petitions to establish ditches and bonds posted by petitioners to insure payment of cost if commissioners fail to establish ditch, showing dates of petition and bond, names of petitioners, viewers and sureties, amount and conditions of bonds, and location and description of ditch. Arr. chron. by dates of petitions. Indexed alph. by names of petitioners. Hdw. 200 pp. 16 x 11 x 3. Aud. off.

## II. COUNTY COUNCIL

The Allen County Council is a statutory body created by an act of 1899, commonly referred to as the County Reform Law.<sup>1</sup> The council is composed of seven members. Each councilman is elected for a term of four years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts, and one councilman is elected by the voters of each district. Three councilmen at large are elected by the electorate of the whole county.<sup>2</sup> Each councilman receives a certificate of election from the clerk of the circuit court but is not commissioned by the governor.<sup>3</sup> Members of the first council were appointed in 1899 by the judge of the circuit court.<sup>4</sup> The county auditor is clerk of the county council, and his duties as such may be performed by himself or by deputy.<sup>5</sup> At an organization meeting held on the second Saturday after its election the council chooses from its members a presiding officer and a presiding officer pro tem., who serve for the term of their respective offices as councilmen.<sup>6</sup>

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<sup>1</sup> Acts 1899; Burns 26-501; Baldwin 5365.

<sup>2</sup> Const., art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

<sup>3</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

<sup>4</sup> Acts 1899; Burns 26-548.

<sup>5</sup> Acts 1899; Burns 26-509; Baldwin 5373.

<sup>6</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

Each councilman must have been an inhabitant of the county during one year next preceding the date of his election or appointment. Each councilman at large must be a qualified voter and resident freeholder of the county, and each of the other councilmen must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can serve as councilman while holding any other lucrative county, state, township, or municipal office.<sup>7</sup> Each councilman, before taking office, must swear to an oath that he will support federal and state constitutions and faithfully and honestly perform his duties as councilman.<sup>8</sup>

Each councilman receives a salary of \$20 per year plus \$10 for each day served at special meetings of the council.<sup>9</sup> Before 1927, there was no additional compensation for serving at special meetings.<sup>10</sup> From 1899 until 1933, the auditor was entitled to a suitable annual allowance from the county council in an amount not less than \$200 nor more than \$600 (besides his regular salary) for his services as clerk of the county council; but since 1933 his annual salary of \$5,200 has been compensation for his regular duties and also his duties as clerk of the county council.<sup>11</sup>

On sufficient legal grounds, any councilman may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; such removal is subject to review by the supreme court.<sup>12</sup> If any councilman is convicted of a felony, the judgment of conviction must declare his office vacant.<sup>13</sup> The county council has the power to expel any councilman for disability, ineligibility, neglect, or violation of official

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<sup>7</sup> Const., art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368. State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133.

<sup>8</sup> Const., art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1899, 1927; Burns 26-503; Baldwin 5367.

<sup>10</sup> Acts 1899, ch. 154, sec. 3.

<sup>11</sup> Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Op. Atty. G. (1934) 313; (1936) 130.

<sup>12</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1827, 1899; Burns 49-834; Baldwin 13050.

duties, and no law specifically provides for a review of such expulsion.<sup>14</sup> Any vacancy in the membership of the council is filled by appointment by the remaining members of the council at a special meeting held for that purpose. Such appointee holds office until the expiration of his term and until his successor is elected and qualified.<sup>15</sup>

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.<sup>16</sup> Before 1899, the board of commissioners performed the duties now belonging to the council.<sup>17</sup>

The county council appropriates money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,<sup>18</sup> authorizes the borrowing of money for the county,<sup>19</sup> and the purchase, sale, or conveyance of real estate of the value of \$1,000 or more by the county.<sup>20</sup> When making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.<sup>21</sup> Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment.<sup>22</sup> In mandamus proceedings, the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rest on the performance of a condition, if in fact the condition has been fulfilled.<sup>23</sup> The authorization by the council of the issuance of bonds or notes in an

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<sup>14</sup> Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

<sup>15</sup> Const., art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

<sup>16</sup> Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap*, 206 Ind. 474, 190 N. E. 178.

<sup>17</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

<sup>18</sup> Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1938 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1938 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>19</sup> Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

<sup>20</sup> Acts 1899; Burns 26-534; Baldwin 5399. Acts 1903; Burns 22-3201; Baldwin 4507.

<sup>21</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1938 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>22</sup> Acts 1937; Burns, 1938 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>23</sup> Acts 1899, Burns 26-528; Baldwin 5392. *State ex rel. Simpson v. Meeker*, 182 Ind. 240, 105 N. E. 906; *State ex rel. Test v. Steinwedel*, 203 Ind. 457, 180 N. E. 865; *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122.

amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners, and no bonds or notes bearing interest greater than five percent per annum can be issued without the approval of that board.<sup>24</sup>

The county council and the board of commissioners, acting together, perform the following duties: Approving or accepting lands given or devised to the county for a public forest;<sup>25</sup> hearing and accepting or rejecting petitions for the condemnation of school buildings, subject to appeal to the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2;<sup>26</sup> determining, on proper petition, the order in which county highway projects shall be established and executed, in the event two or more petitions for such projects are on file with the auditor simultaneously;<sup>27</sup> rebuilding court-houses and jails destroyed by fire or windstorms, and issuing bonds to defray the expense of the same.<sup>28</sup>

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, order, claim, or demand against the county.<sup>29</sup>

The county council holds a regular annual meeting on the first Tuesday after the first Monday of September of each year. Special meetings are called by the auditor or a majority of the members of the council.<sup>30</sup> The sessions are open to the public and may continue until all business is completed.<sup>31</sup> A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.<sup>32</sup> A greater vote is required in order to expel a member (two-thirds),<sup>33</sup> adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),<sup>34</sup> adopt

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<sup>24</sup> Acts '919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. *Citizens Bank v. Burnettsville*, 93 Ind. App. 192, 179 N. E. 724.

<sup>25</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>26</sup> Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>27</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

<sup>28</sup> Acts 1935; Burns, 1935 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>29</sup> Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

<sup>30</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>31</sup> Acts 1899; Burns 26-508; Baldwin 5372.

<sup>32</sup> Acts '899; Burns 26 511; Baldwin 5375.

<sup>33</sup> Acts 1899; Burns 26-512; Baldwin 5376.

<sup>34</sup> Acts 1899; Burns 26-510; Baldwin 5384.

appropriations at a special meeting (two-thirds),<sup>35</sup> and to levy taxes for the repair, maintenance, or preservation of county highways (unanimous).<sup>36</sup> The sheriff, by himself or deputy, attends the sessions of the council and executes its orders.<sup>37</sup>

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.<sup>38</sup> He keeps separate accounts for each specific item of appropriation made by the council.<sup>39</sup>

39. COUNTY COUNCIL RECORD, 1899-. 4 vols. (1-4).

Minutes of meetings of county council, showing date of meeting, names of members present, subjects of business discussed, and action taken. Arr. chron. by dates of meetings. No index. 1899-1914, hdw.; 1915-, typed. 580 pp. 18 x 13 x 3. Aud. off.

40. APPROPRIATION ORDINANCES AND COUNTY COUNCIL PROCEEDINGS, 1899-. 26 f. b. (labelling varies).

Various papers acted upon by county council, including certificates of election, oaths, proofs of publication, tax levies, budget estimates, and ordinances for appropriations, showing dates of instrument and filing, names of principals, and conditions of instruments. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. Aud off.

### III. CLERK OF THE CIRCUIT COURT

The clerk of the circuit court, commonly referred to as "county clerk", is a constitutional officer, elected for a four-year term by the voters of the county. The office was created by the Constitution of 1816, and re-created by the Constitution of 1851. Under the Constitution of 1816, the clerk was elected for a seven-year term by the voters of the county.<sup>1</sup> He

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<sup>35</sup> Acts 1899, 1907, 1913, 1937; Burns, 1938 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>36</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

<sup>37</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>38</sup> Acts 1899; Burns 26-509; Baldwin 5373. State ex rel. Van Der Veer v. Butcher, 205 Ind.

117, 185 N. E. 908.

<sup>39</sup> Acts 1899; Burns 26-523; Baldwin 5387.

<sup>1</sup> Const. 1816, art. 5, sec. 8. Const., art. 6, sec. 2. Acts 1816-17, ch. 14, sec. 1. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

is commissioned by the governor,<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office for more than eight years in any twelve-year period.<sup>4</sup> The clerk must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;<sup>5</sup> and, while holding said office, he must reside within the county, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> Under the Constitution of 1816, the offices of recorder and clerk of the circuit court could be held simultaneously by one person.<sup>8</sup> He must post bond in the amount fixed by the board of commissioners, approved by that board and filed with the recorder,<sup>9</sup> and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>10</sup>

The clerk of the circuit court receives a regular salary of \$4,800 per year.<sup>11</sup> He receives \$300 for his services rendered at each general election, primary election, or special election.<sup>12</sup> For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners in an amount not more than four cents, and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for the additional services rendered by him as registration officer.<sup>13</sup> He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly

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<sup>2</sup> Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const., art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 6, sec. 2.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. (1867) McCracken v. State, 27 Ind. 491.

<sup>8</sup> Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

<sup>9</sup> Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093.

<sup>10</sup> 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

<sup>11</sup> Const., art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Rev. Laws 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>12</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>13</sup> Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

<sup>14</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

authorized by statute in the following cases: Five cents for each mile necessarily travelled in going from the clerk's office to the office of the governor, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except preparation of transcripts.<sup>14</sup>

For sufficient legal grounds, the clerk of the circuit court may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>15</sup> If the clerk is convicted of a felony, the judgment of conviction must declare his office vacant.<sup>16</sup>

Any vacancy in the office of the clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>17</sup>

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<sup>14</sup> Acts 1841-42 (general), ch. 119, sec. 1. Acts 1933; Burns 49-1001, 49-1005, 49-1007; Baldwin 7531, 7535, 7537. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565.

<sup>15</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>16</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>17</sup> Const., art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. (1869) *Douglass v. State ex rel. Wright*, 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

The clerk of the circuit court may appoint two deputies without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of such deputies and assistants, and such salaries must be not less than \$75 and not more than \$200 per month.<sup>18</sup> The clerk may require any deputy to give bond.<sup>19</sup> The deputies must take the oath required of the clerk, may perform all the official duties of the clerk, and are subject to the same regulations and penalties.<sup>20</sup> The clerk may remove such deputies and assistants at any time, and is responsible for their official acts.<sup>21</sup>

As an officer of the circuit court, the clerk performs numerous duties. He, in person or by deputy, attends the circuit court and performs the clerk's customary duties at trials;<sup>22</sup> files pleadings and papers and endorses thereon the time of such filing;<sup>23</sup> issues summonses,<sup>24</sup> notices for service by publication,<sup>25</sup> attachment writs,<sup>26</sup> garnishment writs,<sup>27</sup> executions,<sup>28</sup> and witness subpoenas;<sup>29</sup> administers oaths;<sup>30</sup> takes depositions of witnesses;<sup>31</sup> keeps court dockets,<sup>32</sup> receiv-

<sup>18</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>19</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>20</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>21</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>23</sup> Acts 1816-17, ch. 4, sec. 28. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>24</sup> Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

<sup>25</sup> Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1938 suppl., 2-807; Baldwin, 1935 suppl., 88.

<sup>26</sup> Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

<sup>27</sup> Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

<sup>28</sup> Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524.

<sup>29</sup> Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

<sup>30</sup> Acts 1818-19, ch. 17, sec. 1. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

<sup>31</sup> Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

<sup>32</sup> Acts 1814, ch. 13, sec. 5. Acts 1816-17, ch. 4, secs. 11, 12, 28, 32. Rev. Laws 1824, ch. 74, sec. 15. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

ership records,<sup>33</sup> and records of redemption from judicial sales;<sup>34</sup> records orders, judgments,<sup>35</sup> indictments,<sup>36</sup> and notices of lis pendens;<sup>37</sup> draws up a record of the proceedings of the court daily;<sup>38</sup> enters in a final record book a complete record of causes finally determined;<sup>39</sup> prepares and certifies transcripts of proceedings for change of venue from the county<sup>40</sup> or for appeal to a higher court;<sup>41</sup> and receives payments for all judgments of record in his office.<sup>42</sup> He is ex officio clerk of the Superior Court of Allen County and Allen Superior Court No. 2; and performs therein duties similar to his duties in the circuit court.<sup>43</sup> In addition, for Allen Superior Court No. 2, he issues letters testamentary,<sup>44</sup> and letters of administration;<sup>45</sup> keeps inheritance tax records,<sup>46</sup> probate records,<sup>47</sup> and guardianship records;<sup>48</sup> and records probated

<sup>33</sup> Acts 1911; Burns 3-2607; Baldwin 1147.

<sup>34</sup> Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

<sup>35</sup> Acts 1814, ch. 13, sec. 4. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>36</sup> 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>37</sup> Acts 1877 (Spec. Sess.); ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1.

<sup>38</sup> Acts 1814, ch. 20, sec. 11. Rev. Laws 1824, ch. 74, sec. 54. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413.

<sup>39</sup> Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>40</sup> Acts 1813-14, ch. 37, secs. 1, 2. Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

<sup>41</sup> Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.), Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

<sup>42</sup> Acts 1875; Burns 49-2719; Baldwin 1438.

<sup>43</sup> Acts 1877; Burns 4-503, 4-504; Baldwin 1450-3, 1450-4. Acts 1927; Burns 4-611, 4-612; Baldwin 1461, 1462.

<sup>44</sup> Acts 1881 (Spec. Sess.); Burns 6-201; Baldwin 3025.

<sup>45</sup> Acts 1881 (Spec. Sess.), 1901; Burns 6-301; Baldwin 3030.

<sup>46</sup> Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

<sup>47</sup> Acts 1817-18, ch. 13, secs. 1. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

<sup>48</sup> Acts 1846-47 (general), ch. 54, sec. 1. Acts 1889; Burns 8-137; Baldwin 3424.

wills.<sup>49</sup> From 1829 until 1853 he was ex officio clerk of the probate court of the county (abolished in 1853);<sup>50</sup> from 1853 until 1873 he was ex officio clerk of the common pleas court of the county (abolished in 1873);<sup>51</sup> and from 1868 to 1877 he was ex officio clerk of the criminal court of the county (abolished in 1877).<sup>52</sup> He prepares budget estimates for Allen Circuit Court, Superior Court of Allen County, and Allen Superior Court No. 2.<sup>53</sup>

The clerk issues licenses for marriages,<sup>54</sup> physicians, surgeons,<sup>55</sup> midwives,<sup>56</sup> osteopaths,<sup>57</sup> chiropractors, drugless healers,<sup>58</sup> dentists,<sup>59</sup> optometrists,<sup>60</sup> hunting, trapping, fishing,<sup>61</sup> poultry dealers,<sup>62</sup> and junk dealers.<sup>63</sup> He approves (unless other provision is made by law), files, and records the bonds of county officers (except his own), township officers,<sup>64</sup>

<sup>49</sup> Domestic probate. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385. Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

<sup>50</sup> Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

<sup>51</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>52</sup> Acts 1869 (Spec. Sess.), ch. 23, sec. 1; ch. 25, sec. 1. Acts 1877, ch. 34, secs. 25, 26.

<sup>53</sup> Acts 1899; Burns 26-516; Baldwin 5380.

<sup>54</sup> Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

<sup>55</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>56</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>57</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>58</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

<sup>59</sup> Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>60</sup> Acts 1907; Burns 63-1009. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>61</sup> Acts 1901, ch. 203, sec. 13 (repealed by Acts 1937, ch. 21, sec. 161). Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2 (both repealed by Acts 1937, ch. 21, sec. 161). Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309 (both repealed by Acts 1937, ch. 21, sec. 161). Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

<sup>62</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>63</sup> Acts 1905; Burns 42-703; Baldwin 10462.

<sup>64</sup> Acts 1816-17, ch. 2, sec. 3; ch. 13, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. Laws 1824, ch. 13, sec. 2. Rev. Laws 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-105; Baldwin 13063. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

and notaries public.<sup>65</sup> He records timber brands,<sup>66</sup> certificates of patents granted by the United States Patent Office,<sup>67</sup> assumed business names,<sup>68</sup> trade marks and trade names used on bottles and other containers,<sup>69</sup> inventories and accounts of trustees,<sup>70</sup> appointments of railroad agents for service of process,<sup>71</sup> and termination of authority of railroad policemen.<sup>72</sup> He records marriage licenses, the application therefor, and certificates of marriages;<sup>73</sup> and makes monthly reports to the county health officer concerning marriages for the preceding month.<sup>74</sup> He registers certificates of trained nurses,<sup>75</sup> and keeps a register of estrays and articles adrift.<sup>76</sup> Formerly he issued liquor licenses,<sup>77</sup> brokers' licenses,<sup>78</sup> firearms permits,<sup>79</sup> licenses for veterinarians,<sup>80</sup> stallions,<sup>81</sup> and petty money lenders,<sup>82</sup> and kept a register of certificates of agents of foreign insurance companies.<sup>83</sup>

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<sup>65</sup> 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

<sup>66</sup> Acts 1901; Burns 51-338; Baldwin 13265.

<sup>67</sup> Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

<sup>68</sup> Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

<sup>69</sup> Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

<sup>70</sup> Acts 1937; Burns, 1939 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

<sup>71</sup> Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

<sup>72</sup> Acts 1927; Burns 55-3408; Baldwin 14654.

<sup>73</sup> Rev. Stat. 1838, ch. 68, sec. 6. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625.

<sup>74</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>75</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

<sup>76</sup> Rev. Laws 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

<sup>77</sup> Acts 1820-21, ch. 36, secs. 1, 2. Pharmacists' liquor licenses. Acts 1917, ch. 4, secs. 6, 12.

<sup>78</sup> Acts 1840-41 (general), ch. 5, sec. 18.

<sup>79</sup> Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21).

<sup>80</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

<sup>81</sup> Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>82</sup> Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

<sup>83</sup> Acts 1901, ch. 180, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1903, ch. 66, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567 (repealed by Acts 1935, ch. 162, sec. 276).

Formerly the clerk kept a negro register,<sup>84</sup> a roll of attorneys of the county,<sup>85</sup> lists of shareholders of banks of the county,<sup>86</sup> lists of lands purchasable at all land offices in the state,<sup>87</sup> plats showing changes in routes of roads and canals,<sup>88</sup> kept a record of roads and objects connected therewith,<sup>89</sup> filed bounty certificates<sup>90</sup> and enumerations of soldiers and sailors,<sup>91</sup> and recorded limited partnerships.<sup>92</sup>

The clerk serves ex officio as registration officer for the county<sup>93</sup> and as a member of the county election boards.<sup>94</sup>

The board of election commissioners, established in 1889 and composed of the clerk of the circuit court and two members appointed by him, one from each of the two major political parties and nominated by the chairman of the county central committees of the two aforesaid parties, has charge of printing and distributing ballots for general and special elections.<sup>95</sup> Declarations for independent candidacy are filed with the clerk at least 30 days before the election.<sup>96</sup> Certificates and petitions of nomination are filed with the clerk not more than 60 days nor less than 30 days before the election.<sup>97</sup> All election returns<sup>98</sup> and records are filed in the office of the clerk.<sup>99</sup>

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<sup>84</sup> 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

<sup>85</sup> Rev. Stat. 1843, ch. 38, sec. 93.

<sup>86</sup> 1 Rev. Stat. 1852, ch. 10, sec. 30.

<sup>87</sup> Acts 1825, ch. 47, sec. 2. Rev. Stat. 1838, ch. 10, secs. 6, 7.

<sup>88</sup> Rev. Stat. 1838, ch. 17, sec. 56.

<sup>89</sup> Acts 1815, ch. 5, sec. 19.

<sup>90</sup> Acts 1816-17, ch. 23, sec. 3.

<sup>91</sup> Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1). Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

<sup>92</sup> Rev. Stat. 1838, ch. 78, secs. 5-7.

<sup>93</sup> Acts 1933, 1935; Burns, 1938 suppl., 29-306; Baldwin, 1935 suppl., 7304. See the separate essay on registration officer.

<sup>94</sup> Board of primary election commissioners. Acts 1915, 1917; Burns 29-504; Baldwin 7190. Board of election commissioners. Acts 1899; Burns 29-1002; Baldwin 7109. Board of canvassers. Rev. Stat. 1843, ch. 5, sec. 47. Acts 1905; Burns 29-1402; Baldwin 7378. See the separate essays on these boards.

<sup>95</sup> Acts 1889; Burns 29-1002; Baldwin 7109. See the separate essay on the board of election commissioners.

<sup>96</sup> Acts 1921, 1925; Burns 29-1006; Baldwin 7119.

<sup>97</sup> Acts 1889, 1933; Burns 29-1003; Baldwin 7110. Acts 1889, 1931; Burns 29-1007; Baldwin 7114.

<sup>98</sup> Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157.

<sup>99</sup> Acts 1889; Burns 29-811, 29-1009; Baldwin 7100, 7113. Acts 1915; Burns 29-1304; Baldwin

The board of primary election commissioners, established in 1907, is composed of the election commissioners. It is the duty of this board to prepare and distribute ballots for primary elections.<sup>100</sup> Declarations of candidacy for all county and other local officials are filed with the clerk of the circuit court.<sup>101</sup> The secretary of state certifies to the clerk a list of all the candidates who have filed declarations of candidacy in his office.<sup>102</sup> The records of the board are filed in the office of the clerk.<sup>103</sup>

The board of canvassers is also composed of the election commissioners.<sup>104</sup> This board examines the papers entrusted to it, tabulates the vote for the county, declares the persons having the highest number of votes, and certifies their election in any election. All records and papers of the board are preserved by the clerk of the circuit court who acts as clerk of the board.<sup>105</sup> The clerk makes out a certificate of votes cast for members of the Indiana General Assembly, members of Congress, governor, and other state officials, to be forwarded to the secretary of state.<sup>106</sup>

As registration officer, the clerk takes initial registrations, keeps files of all registration data, checks his files continuously to keep them up to date, and makes transfers of registration.<sup>107</sup>

The clerk issues absentee voters' ballots, and applica-

7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. (1886) State ex rel. Prilliman v. Town of Tipton, 109 Ind. 73, 9 N. E. 704.

<sup>100</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the separate essay on the board of primary election commissioners.

<sup>101</sup> Acts 1915, 1917, 1933; Burns 29-513; Baldwin 7199.

<sup>102</sup> Acts 1915, 1931; Burns 29-516; Baldwin 7202.

<sup>103</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1839; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447.

<sup>104</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the separate essay on the board of canvassers.

<sup>105</sup> Acts 1816-17, ch. 9, sec. 14. Acts 1816-17, ch. 14, sec. 4. Rev. Stat. 1843, ch. 4, sec. 56. Rev. Stat. 1843, ch. 5, secs. 48, 52, 54. Acts 1805; Burns 29-1402, 29-1404, 29-1405; Baldwin 7378, 7380, 7381. Acts 1881; Burns 29-1501; Baldwin 7178. Brower v. O'Brien, 2 Ind. 423.

<sup>106</sup> Rev. Laws 1838, ch. 32, secs. 18, 19. Acts 1881 (Spec. Sess.); Burns 29-1506, 29-1509; Baldwin 7183, 7186.

<sup>107</sup> Acts 1933; Burns 29-302, 29-309; Baldwin 7300, 7307. Acts 1933, 1935; Burns, 1939 suppl., 29-311 to 29-314, 29-317, 29-330; Baldwin, 1935 suppl., 7309 to 7312, 7314, 7328. Acts 1933; Burns 29-315, 29-316, 29-318 to 29-322, 29-334; Baldwin 7313, 7314, 7316 to 7320, 7332.

tions therefor, either to the applicant by mail or in person at his office.<sup>108</sup> At least 20 days before an election, the clerk certifies to the sheriff a complete list of officers to be elected; so that the sheriff may post election notices.<sup>109</sup> The clerk of the circuit court serves as clerk of the commissioners appointed by the circuit court for the recount of votes. The certificate of recount is filed with the clerk.<sup>110</sup> When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them with the auditor of each of such counties.<sup>111</sup>

Formerly the auditor, recorder, and clerk of the circuit court had charge of the county library, and constituted a board of trustees for that purpose. The board was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated for the library, and make loans of the surplus library fund, and was required to make an annual report to the board of commissioners.<sup>112</sup> Several years ago the library was discontinued.

Before the creation of the office of county auditor in 1841,<sup>113</sup> the clerk performed the following duties which were transferred to the auditor<sup>114</sup> in 1841 or soon thereafter: As clerk of the board of commissioners,<sup>115</sup> as member of boards performing duties like those of the present county board of review,<sup>116</sup> and duties concerning taxation, finance, county

<sup>108</sup> Acts 1881; Burns 29-706; Baldwin 7086. Acts 1917, ch. 100, secs. 4, 5. Acts 1935; Burns, 1939 suppl., 29-2602 to 29-2605, 29-2623; Baldwin, 1935 suppl., 7348-2 to 7348-5, 7348-23.

<sup>109</sup> Rev. Stat. 1843, ch. 5, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

<sup>110</sup> Rev. Stat. 1843, ch. 5, secs. 103, 112. Acts 1881 (Spec. Sess.); Burns 29-2103, 29-2104; Baldwin 7390, 7391.

<sup>111</sup> Acts 1875; Burns 26-201; Baldwin 5032.

<sup>112</sup> Acts 1816-17, ch. 28; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503. Acts 1861; Burns 41-507. (1883) Traylor v. Dykins, 91 Ind. 229.

<sup>113</sup> Acts 1840-41 (general), ch. 2, sec. 1.

<sup>114</sup> (1853) Jones v. Cavins, 4 Ind. 305.

<sup>115</sup> Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

<sup>116</sup> Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

business,<sup>117</sup> elections,<sup>118</sup> and empanelling of petit jurors and grand jurors.<sup>119</sup>

Formerly, when there was an enumeration of white male inhabitants over the age of 21 years, lists showing such enumeration were delivered to and kept by the clerk, and the clerk certified to the auditor of state the results of such enumeration.<sup>120</sup> Since 1845 the auditor has performed these duties,<sup>121</sup> to which was added in 1877 the enumeration of colored males over the age of 21 years.<sup>122</sup>

Formerly the clerk of the circuit court was required to perform the duties of the office of school commissioner if there was no school commissioner.<sup>123</sup>

The clerk serves ex officio as a member of the county school fund board.<sup>124</sup>

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.<sup>125</sup> He reports to the county auditor and treasurer all fees and fines collected by him.<sup>126</sup> All money remaining in

<sup>117</sup> Acts 1807, ch. 52, sec. 1. Acts 1811, ch. 37, secs. 3, 5. Acts 1813, ch. 8, sec. 6. Acts 1813-14, ch. 32, secs. 2, 3. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, secs. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

<sup>118</sup> Acts 1834-35 (general), ch. 43, sec. 1. Rev. Stat. 1838, ch. 32, sec. 18, 19; ch. 91, sec. 26. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

<sup>119</sup> Acts 1841-42 (general), ch. 45, secs. 5, 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1. Acts 1853, ch. 59, sec. 1. These duties of the auditor were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

<sup>120</sup> Acts 1825, ch. 21, sec. 1. Acts 1829-30, ch. 9, secs. 1, 5. Acts 1834-35 (general), ch. 10, sec. 5. Acts 1839-40 (general), ch. 15, sec. 5.

<sup>121</sup> Acts 1844-45 (general), ch. 29, secs. 2, 3, 5. Acts 1853, ch. 41, secs. 1-3. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605, 65-610, 65-611, 65-614; Baldwin 7490 to 7494, 7499, 7500, 7503.

<sup>122</sup> Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

<sup>123</sup> Acts 1836-37 (general), ch. 21, sec. 1.

<sup>124</sup> Acts 1865, 1935; Burns, 1939 suppl., 23-209; Baldwin, 1935 suppl., 6558. See the separate essay on the county school fund board.

<sup>125</sup> Acts 1937; Burns, 1939 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1433-1, 1438-2.

<sup>126</sup> Acts 1828-29, ch. 24, secs. 1, 2. Rev. Laws 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

the office of the clerk for 10 years without being demanded by the party entitled thereto is paid to the attorney general.<sup>127</sup>

The clerk keeps a cashbook,<sup>128</sup> a daily balance record,<sup>129</sup> and a register of fees received by him;<sup>130</sup> and must preserve in his office all records and writings appertaining to his official duties.<sup>131</sup>

The state board of accounts (created in 1909) prescribes the forms of books, reports, accounts, and records for the use or disposition of all clerks of circuit courts for powers and duties of the clerks which in any way concern or affect the accounting for public funds.<sup>132</sup>

Forms for the following books were prescribed for clerks of circuit courts by the state board of accounts: Cashbook of receipts and disbursements; daily balance record; entry issue docket and fee book; estate entry claims and allowance docket and fee book; guardianship docket and fee book; register of fees and funds held in trust; support docket; index and record of receiverships; judgment docket; record of poultry dealers' licenses and applications therefor. Said board has prescribed forms of blanks for report of fines and forfeitures collected, poultry dealers' license, and application for such license.<sup>133</sup>

The books and accounts of the clerk are examined, from time to time without notice, by the state examiner. Before the creation of the office of state examiner in 1909, the judge of Allen Circuit Court examined the clerk's office on the first day of every term of such court, and reported in writing to the board of commissioners showing the manner in which the books and papers of the clerk's office were kept.<sup>134</sup>

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<sup>127</sup> Act 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

<sup>128</sup> Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

<sup>129</sup> Acts 1937; Burns, 1938 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>130</sup> Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

<sup>131</sup> Acts 1829-30, ch. 10, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>132</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>133</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>134</sup> 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862.

## OFFICIAL BONDS

(See also entries 401, 402)

41. BOND RECORD [Official], 1838-. 4 vols. (A, 1, 3, and 1 vol. not labelled).

Record of bonds posted by county and township officials, including justices of peace and constables, showing date, amount and conditions of bond, and names of official and sureties. Also contains: Notarial Bond Record, 1838-70, entry 45. Arr. chron. by dates of bonds. Indexed alph. by names of officials; for separate index, 1889-, see entry 42. Hdw. 400 pp. 18 x 3 x 2. Clk. off.

42. OFFICIAL BOND INDEX RECORD, 1889-. 3 vols. (1-3).

Partial index to Bond Record [Official], entry 41, Notarial Bond Record, entry 45, showing date of filing, names of official and sureties, and volume and page reference to recording. Arr. alph. by names of officials. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

43. CONSTABLE BONDS, 1824-. 4 f. b. (3204, 3244, 3501, 3831).

Original bonds posted by constables for faithful performance of duties, showing dates of filing and bond, names of official, sureties and township, and conditions and amount of bond. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

For record of constable bonds, see entry 41.

44. GENERAL INDEX TO MISCELLANEOUS PAPERS, 1824-. 1 vol.

Index to Constable Bonds, entry 43; Notary Public Bonds, entry 46; Justice of Peace Bonds, entry 47; Marriage Applications, entry 50; Marriage Certificates, entry 51; Physicians' Certificates, entry 53; [Drugless Physicians' Applications], entry 54; [Dentists' Certificates], entry 56; Optometry Certificates, entry 58; Nurses Certificates, entry 60; Veterinary Statements, entry 62; Patents, entry 63; Junk Dealer's License Applications, entry 66; Poultry Dealers License Applications, entry 68; [Petty Loan Bonds and Applications], entry 70; Sire License, entry 72; Firm Names, entry 73; Permit to Carry Concealed Revolvers, entry 75; Dealers' License to Sell Firearms, entry 77; [Gun Sale Reports], entry 78; Trade Marks and Labels, entry 80; Power of Attorney, entry 84; [Revocation of Power of Attorney], entry 86; Estrays, entry 88; Naturalization Papers, entry 157; Executions, Circuit Court, entry 174; Sheriff's Certificates of Sales [Circuit Court], entry 177; Criminal Bonds, entry 187; [Miscellaneous Bonds], entry 197;

Plaintiff's Cost, entry 198; Depositions, entry 199; [Grand Jury Reports], entry 200; Paroles and Discharges, entry 203; Executions, Superior Court of Allen County, entry 219; Insanity Cases, entry 225; Executions Superior Court No. 2, entry 233; Surviving Partnerships, entry 242; Administrator's Executor's and Guardian's Bonds, entry 246; Bonds to Sell Real Estate, entry 247; Coroner's Inquests, entry 301, showing title of instrument and file box number. Also contains: [Patent Register], 1900-1922, 1927-, entry 64. Arr. alph. by titles of instruments. Hdw. 300 pp. 15 x 9 x 1½. Clk. off.

45. NOTARIAL BOND RECORD, 1871-. 17 vols. (1-17).  
1838-70 in Bond Record [Official], entry 41.

Record of bonds posted by notaries public to insure faithful performance of duties, showing date, amount and conditions of bond, and names of notary and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of notaries; for separate index, 1889-, see entry 42. Hdw. 300 pp. 16 x 12 x 2. Clk. off.

46. NOTARY PUBLIC BONDS, 1845-. 24 f. b. (2741, 2763, 2843, 2920, 2946, 3063, 3110, 3224, 3226, 3239, 3382, 3623, 3682, 3738, 3759, 3790, 3818, 3856, 4002, 4045, 4075, 4103, 4132, 4193).

Original bonds posted by notaries public for faithful performance of duties, showing dates of bond and filing, names of notaries, witnesses and sureties, and conditions and amount of bond. Arr. chron. by dates of bonds. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

For record of notary public bonds, see entries 41, 45.

47. JUSTICE OF PEACE BONDS, 1912-. 6 f. b. (3108, 3204, 3222, 3228, 3294, 3818).

Original bonds posted by justices of the peace for faithful performance of duties, showing dates of bond and filing, names of justices and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

For record of justice of the peace bonds, see entry 41.

#### LICENSES AND CERTIFICATES

MARRIAGE (see also entry 425)

48. MARRIAGE RECORD, 1824-. 93 vols. (1a-1c, 2-91).

Record of marriage applications, licenses and returns, showing dates of application, license and return, names, ages, addresses, family histories, previous marital status, dates

and places of birth and occupations of bride and groom, names of parents and witnesses, and affidavit of witnesses. Arr. chron. by dates of applications. Indexed alph. by names of grooms; for separate index, see entry 49. Hdw. 550 pp. 18 x 13 x 3. Clk. off.

49. GENERAL INDEX OF MARRIAGES, 1824-. 9 vols. (1, 2-8). Index to Marriage Record, entry 48, showing names of bride and groom and volume and page reference to recording. Arr. alph. by names of brides and grooms. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

50. MARRIAGE APPLICATIONS, 1919-. 11 f. b. (2555, 2717, 2766, 2921, 3021, 3083, 3172, 3374, 3773, 4103, 4193). Original applications for marriage licenses, showing date and number of application, names, ages, addresses, color, dates and places of birth, family histories, previous marital status, and occupations of bride and groom, affidavits of witnesses, and names, addresses, birthplaces, occupations, and consent of parents. Arr. chron. by dates of applications. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

51. MARRIAGE CERTIFICATES [Marriage Returns], 1921-. 27 f. b.

Original certificates returned to clerk by person officiating certifying performance of marriage, showing dates of marriage and return, and names of bride, groom and person officiating. Arr. chron. by dates of returns. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### PHYSICIANS

52. RECORD OF PHYSICIANS LICENSE, 1885-. 2 vols. (1, 1 vol. not numbered).

Record of certificates issued by state board of medical registration and examination and licenses issued by clerk to practice in county, showing dates of certificate and license, name, age, address and birthplace of physician, school attended, and nature of practice. Also contains: Optometry Record, 1916-, entry 57. Arr. chron. by dates of licenses. No index. Hdw. 150 pp. 10 x 8 x 1. Clk. off.

53. PHYSICIANS' CERTIFICATES, 1885-. 8 f. b. (84, 2433, 2509, 2680, 2764, 3107, 3197, 3401).

Original certificates issued by state board of medical registration and examination and presented to clerk to obtain licenses to practice medicine, surgery and obstetrics in county, showing dates of certificate and filing, name and address of physician, and name of medical college attended. Arr. chron.

by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

54. [DRUGLESS PHYSICIANS' APPLICATIONS], 1928-. 1 f. b. (3401).

Certificates issued by state board of medical registration and examination and presented to clerk to obtain licenses to practice osteopathy, chiropractic or drugless healing in county, showing dates of certificate and filing, name and address of licensee, and name of school attended. Arr. chron. by dates of certificates. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### DENTISTS

55. RECORD OF DENTISTS LICENSE, 1899-. 1 vol.

Record of certificates issued by state board of dental examiners and licenses issued by clerk to practice in county, showing dates of certificate and license, name, address, age and birthplace of dentist. Arr. chron. by dates of licenses. Indexed alph. by names of dentists. Hdw. 200 pp. 18 x 13 x 2½. Clk. off.

56. [DENTISTS' CERTIFICATES], 1899-. 3 f. b. (2651, 3197, 3451).

Original certificates issued by state board of dental examiners and presented to clerk to obtain licenses to practice dentistry in county, showing dates of certificate and filing, certificate number, name and address of dentist, and name of college attended. Arr. chron. by dates of certificates. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### OPTOMETRISTS

57. OPTOMETRY RECORD, 1907-15. 1 vol. 1916- in Record of Physicians License, entry 52.

Record of certificates issued by state board of registration and examination in optometry, and license issued to practice in county, showing dates of certificate, license and expiration, statement of qualifications, name and address of applicant, and certificate number. Arr. chron. by dates of licenses. Indexed alph. by names of applicants. Typed. 200 pp. 16 x 10 x 1. Clk. off.

58. OPTOMETRY CERTIFICATES, 1917-. 3 f. b. (2651, 3107, 3450).

Certificates issued by state board of registration and examination in optometry and presented to clerk to obtain licenses to practice in county, showing date and number of certificate,

date of filing, and name and address of optometrist. Arr. chron. by dates of filing. For index, see entry 44. Typed. 11 x 5 x 14. Clk. off.

#### NURSES

59. REGISTER OF TRAINED NURSES, 1905-. 1 vol.

Register of certified nurses practicing in county, showing date and number of certificate, and name and address of nurse. Arr. alph. by names of nurses. No index. Hdw. 125 pp. 12 x 10 x 2. Clk. off.

60. NURSES CERTIFICATES, 1905-. 10 f. b. (2164, 2464, 2476, 2764, 2964, 3107, 3197, 3308, 3401, 3451).

Original certificates issued by state board of registration and examination of nurses, showing dates of certificate, filing and graduation, certificate number, and name, address and qualifications of nurse. Arr. chron. by dates of certificates. For index, see entry 44. Typed. 11 x 5 x 14. Clk. off.

#### VETERINARIANS

61. VETERINARY CERTIFICATES, 1901-4. 1 vol. 1905-May 14, 1919 issued by state board of veterinary medical examiners; May 15, 1919- issued by veterinary examination board.

Record of certificates issued to veterinaries to practice in county, showing date of certificate, name of veterinary, and freeholders' affidavit of previous experience. Arr. chron. by dates of certificates. No index. Typed. 110 pp. 12 x 8 x 1. Clk. off.

62. VETERINARY STATEMENTS, 1901-4. 1 f. b. (87).

Freeholders' affidavits of previous experience of veterinaries submitted to clerk to obtain certificates to practice in county, showing date of affidavit and names of veterinary and freeholders. Arr. chron. by dates of affidavits. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### COMMERCIAL

63. PATENTS, 1869-. 3 f. b. (88, 2475, 4234).

Certified copies of letters patent granted by U. S. Patent Office, showing dates of application, letters, expiration of patent and filing, name of patentee, and description and detailed drawing of patent. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

64. [PATENT REGISTER], 1900-1922, 1927-. In General Index to Miscellaneous Papers, entry 44.

Record of patent right certificates filed with clerk, showing dates of certificate and filing, description and number of patent, and name of patentee. Arr. chron. by dates of certificates. No index.

65. JUNK DEALERS' LICENSE RECORD, 1905-. 1 vol.

Record of applications for and licenses issued to purchase junk in county, showing dates of application and license and name and place of business of applicant. Arr. chron. by dates of licenses. Indexed alph. by names of applicants. Hdw. 615 pp. 14 x 10 x 2½. Clk. off.

66. JUNK DEALER'S LICENSE APPLICATIONS, 1917-. 3 f. b. (2680, 3107, 3451).

Applications of junk dealers for licenses to purchase junk in county, showing date of application and name and place of business of dealer. Arr. chron. by dates of applications. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

67. POULTRY DEALERS' LICENSE RECORD, 1917-. 1 vol.

Record of applications for and licenses issued to poultry dealers to purchase poultry in state, showing dates of application and license and name and place of business of dealer. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 250 pp. 18 x 12 x 1½. Clk. off.

68. POULTRY DEALERS LICENSE APPLICATIONS, 1917-. 4 f. b. (2651, 3107, 3450, 3451).

Original applications for licenses to purchase poultry, showing dates of application and filing, name and business address of applicant, and term of license. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

69. PETTY MONEY LENDERS' LICENSE, 1913-16. 1 vol. 1917-32 issued by auditor of state; 1933-issued by department of financial institutions.

Record of applications for, licenses issued, and bonds posted to engage in small loan business, showing dates of application, bond and license, and names of firm and sureties. Arr. chron. by dates of applications. No index. Hdw. 250 pp. 15 x 12 x 2½. Clk. off.

70. [PETTY LOAN BONDS AND APPLICATIONS], 1913-16. 1 f. b. (2033). 1917-32 issued by auditor of state, 1933-issued by department of financial institutions.

Bonds posted by firms to engage in small loan business, showing date of bond, names of principal and sureties, and date,

conditions and amount of bond. Arr. alph. by names of principals. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

71. IMPROVED STOCK LICENSE, 1889-1913. 1 vol. Transferred to Stallion Enrollment Board in 1914.

Record of licenses to owners of stallions, showing dates of application and license, name of owner, and description and pedigree of animal. Arr. chron. by dates of applications. Indexed alph. by names of owners. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

72. SIRE LICENSE, 1889-1912. 1 f. b. (2651). Discontinued. Transferred to Stallion Enrollment Board. Applications for sire licenses, showing date of application, name of applicant, and description and pedigree of stallion. Arr. chron. by dates of applications. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

73. FIRM NAMES, 1919-. 4 f. b. (2702, 2774, 3170, 4104). Original certificates filed with clerk by firms or partnerships doing business under names other than their own, showing date of certificate, names of firm members, type of business, and addresses of firm and firm members. Arr. chron. by dates of certificates. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

74. INSURANCE REGISTER, 1875-77. 1 vol. Record of certificates issued by auditor of state to foreign insurance companies authorizing them to transact business in state, showing dates of certificate and filing, name of company, and name and address of agent. Arr. chron. by dates of filing. No index. Hdw. 264 pp. 18 x 12 x 2. Clk. off.

FIREARMS (see also entry 283)

75. PERMIT TO CARRY CONCEALED REVOLVERS, 1926-. 5 f. b. (3112, 3114, 3241, 3313, 4055). Original applications for and copies of permits to carry firearms, showing dates of application and permit, name and description of applicant, description of firearm, reason for permit, and signature of two freehold residents. Arr. chron. by dates of applications. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

76. GUN PERMITS, 1925-. 1 vol. Stubs of permits issued to applicants to carry firearms, showing date and serial number of permit, name, description and address of applicant, reason for application, and description of firearms. Arr. chron. by dates of permits. No index. Hdw. 400 pp. 18 x 13 x 3. Clk. off.

77. DEALERS' LICENSE TO SELL FIREARMS, 1925-. 3 f. b.  
(3168, 3313, 3447).

Copies of licenses issued by clerk to dealers retailing firearms, showing dates of license and filing, and name and address of licensed dealer. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

78. [GUN SALE REPORTS], 1925-. 3 f. b.

Reports of firearm dealers of sales of guns to individuals, showing dates of sale and report, names and addresses of purchaser and dealer, age of purchaser, and description and number of gun. Arr. chron. by dates of reports. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### BUSINESS ASSOCIATIONS

79. RECORD OF TRADEMARKS AND LABELS, 1898-. 1 vol.

Register of trade marks and labels, showing date of recording, name of firm or individual, and description of mark or label, with facsimile attached, 1915-. Arr. chron. by dates of recording. No index. 1898-Sept. 1903, hdw.; Oct. 1903-, typed. 100 pp. 12 x 8 x 1. Clk. off.

80. TRADE MARKS AND LABELS, 1898-1914. 1 f. b. (788).

1915- in Record of Trademarks and Labels, entry 79. Facsimiles of trade marks and labels registered for protection of manufacturers of products, showing date of filing, name of firm or owner, type of business, and detailed description of trade mark. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

81. PARTNERSHIP AND FIRM BOND, 1909-. 4 vols. (1-4).

Record of firms and partnerships doing business under names other than their own, showing date of filing, name of firm or partnership, nature and location of business, and names and addresses of members. Arr. chron. by dates of filing. Indexed alph. by names of firms and partnerships. Hdw. and typed. 300 pp. 17 x 12 x 2½. Clk. off.

#### MILITARY RECORDS

(See also entries 21, 22, 128, 129)

82. [TOWNSHIP TRUSTEES' ENUMERATION OF WAR VETERANS], 1918-21. 1 f. b. (2814).

List of soldiers, sailors and members of national guard formerly enlisted in military service and now residing in county, showing dates of filing and enlistment, name, age,

rank and branch of service of veteran, number of veterans in each township, and name of township trustee. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Clk. off. '

#### MISCELLANEOUS

83. NOTARIAL REGISTER, 1878-. 4 vols. (A-D).

Register of notaries public, justice of the peace and constables in county, showing name and address of official, date and amount of bond, term of commission and names of sureties. Arr. alph. by names of notaries. No index. Hdw. 400 pp. 16 x 12 x 2½. Clk. off.

84. POWER OF ATTORNEY, 1911-. 5 f. b. (2761, 2764, 3410, 3697, 3828).

Original authorizations of power of attorney, showing dates of filing, authorization and revocation, names of company and agent, and limitation of power granted. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

For other power of attorney records, see entries 85, 86, 134.

85. INDEX TO POWER OF ATTORNEY [Power of Attorney Authorizations], 1915-. 1 vol.

Register of insurance and bonding companies authorizing power of attorney to agents, showing dates of filing, grant and revocation, and names of company and agent. Arr. alph. by names of companies. No index. Hdw. 80 pp. 15 x 10 x ½. Clk. off.

For other power of attorney records, see entries 84, 86, 134.

86. [REVOCATION OF POWER OF ATTORNEY], 1931-. 1 f. b. (4234).

Original revocations of power of attorney, showing dates of filing, order and revocation, names of principal and agent, and statement concerning revocation of power. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

For other power of attorney records, see entries 84, 85, 134.

87. ESTRAY RECORD, 1880-. 1 vol. Last entry Sept. 2, 1902.

Record of strayed livestock reported found, showing date of report, name of finder, type, description and appraised value of stock. Arr. chron. by dates of reports. Indexed alph. by description of stock. Hdw. 430 pp. 18 x 13 x 3. Clk. off.

## 88. ESTRAYS, 1867-1902. 1 f. b. (87).

Report of lost and found livestock, showing name of finder and description and appraised value of animal. No orderly arr. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

## 89. NEGRO REGISTER, 1853-61. 1 vol.

Register of all negro and mulatto residents in county prior to 1851 for purpose of preventing further immigration of such persons to Indiana after that year, in accordance with original article 13 of Constitution of 1851, showing date of registration, name, age, birthplace and description of negro or mulatto, and names of witnesses. Arr. chron. by dates of registrations. Indexed alph. by names of negroes or mulattoes. Hdw. 125 pp. 14 x 10 x 1. Clk. off.

## RECEIPTS AND DISBURSEMENTS

## 90. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1926-. 9 vols. (91-95, and 4 vols. not numbered).

Record of all daily receipts and disbursements, showing date, nature and amount of receipt, names of payee or payer and fund, receipt or check number, and total receipts and disbursements. This is a combination of two records formerly kept separately: Cash Book of Receipts, 1911-25, entry 91; Cash Book of Disbursements, 1911-25, entry 92. Arr. chron. by dates of receipts or disbursements. No index. Hdw. 600 pp. 18 x 17 x 3. Clk. off.

## 91. CASH BOOK OF RECEIPTS, 1911-25. 9 vols. (1-9). 1872-1910 in Cash Book, entry 93. 1926- in Cash Book of Receipts and Disbursements, entry 90.

Record of daily cash receipts from all sources, showing date, number and amount of receipt, name of payer, cause number, and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

## 92. CASH BOOK OF DISBURSEMENTS, 1911-25. 6 vols. (3 vols. not numbered, 6-8). 1872-1910 in Cash Book, entry 93; 1926- in Cash Book of Receipts and Disbursements, entry 90.

Record of daily disbursements, showing date, nature and amount of disbursement, name of payee, cause and check numbers, and total disbursements. Arr. chron. by dates of disbursements. No index. 300 pp. 18 x 13 x 3. Clk. off.

## 93. CASH BOOK, 1872-1910. 8 vols.

Record of daily cash receipts and disbursements, showing date, amount and nature of receipt or disbursement, names of payee

and payer, cause and receipt or check numbers, and total receipts and disbursements. This is a combination of two records later kept separately: Cash Book of Receipts, 1911-25, entry 91; Cash Book of Disbursements, 1911-25, entry 92. Arr. chron. by dates of receipts or disbursements. No index. Hdw. 500 pp. 16 x 12 x 2. Clk. off.

94. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1875-14 vols. (1-9, 1, 2, 2, 1, and 1 not numbered).

Record of fees and funds held in trust pending proper disbursement, showing cause number, dates of receipt and disbursement, names of payer and payee, and amount of fee or fund. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

95. SUPPORT DOCKET, 1911-. 18 vols.

Record of receipts and disbursements for alimony and support, showing cause number, dates and amounts of receipts and disbursements, and names of plaintiff, defendant, payer and payee. Arr. alph. by names of payers. Hdw. 600 pp. 14 x 18 x 4. Clk. off.

96. SUPPORT CHECKS, 1911-. 34 vols.

Stubs of checks issued for payment of support and alimony, showing date, number and amount of check, name of payee, and volume and page reference to Support Docket, entry 95. Arr. num. by check nos. No Index. Hdw. 200 pp. 16 x 5 x 1. Clk. off.

97. [CANCELLED CHECKS], 1911-. 20 f. d.

Cancelled checks issued for payment of support and alimony, showing same information as entry 96. Arr. num. by check nos. No index. Hdw. 9 x 5 x 14. Clk. off.

98. SUPPORT RECEIPTS, 1931-. 34 vols.

Stubs of receipts issued for payment of support and alimony, showing date, number and amount of receipt, name of payer, and volume and page reference to Support Docket, entry 95. Arr. num. by receipt nos. No index. Hdw. 290 pp. 18 x 5 x 3. Clk. off.

99. BANK BALANCE STATEMENTS, 1932-. 4 f. b.

Depository statements of deposits and withdrawals of county funds, showing dates of statement, deposits and withdrawals, amounts of daily deposits and withdrawals, and balance. Arr. chron. by dates of statements. No index. Typed. 9 x 5 x 14. Clk. off.

100. FEES DUE EX-COUNTY OFFICERS, 1898-1920. 1 vol.

Record of fees due and payable to ex-officials prior to expiration of term, showing date of payment, name of official,

and nature and amount of fees. Arr. chron. by dates of payments. No index. Hdw. 584 pp. 18 x 13 x 3. Clk. off.

101. CASH BLOTTER, 1901-10. 5 vols. Discontinued. Daily notes of clerk's expenditures posted to cash books, showing date of disbursement, name of payee, amount and nature of expenditure, and daily total. Arr. chron. by dates of disbursements. No index. Hdw. 150 pp. 16 x 12 x 1½. Clk. off.

#### IV. RECORDER

The recorder is a constitutional officer, elected for a four-year term by the voters of the county. The office was created by the Constitution of 1816 and re-created by the Constitution of 1851. Under the Constitution of 1816, the recorder was elected for a seven-year term by the voters of the county.<sup>1</sup> He is commissioned by the governor,<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office for more than eight years in any twelve-year period.<sup>4</sup> The recorder must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;<sup>5</sup> and, while holding said office, he must reside within the county, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> Under the Constitution of 1816, the offices of recorder and clerk of the circuit court could be held simultaneously by one person.<sup>8</sup> He must post bond in the amount of \$4,000, approved by the board of commissioners and filed with the clerk of the circuit court,<sup>9</sup> and take an oath that he will

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<sup>1</sup> Const. 1816, art. 11, sec. 10. Const., art. 6, sec. 2. Acts 1816-17, ch. 19, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const., art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 6, sec. 2. Carson v. McPhetridge (1860), 15 Ind. 327.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

<sup>8</sup> Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

<sup>9</sup> Rev. Laws 1831, ch. 77, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State ex rel. Lowry v. Davis (1884), 96 Ind. 539; State ex rel. Lowry v. Davis (1889), 117 Ind. 307, 20 N. E. 159.

support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>10</sup>

The recorder receives a regular salary of \$4,000 per year.<sup>11</sup> He is permitted to retain, as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount so retained be not more than \$2,000.<sup>12</sup>

For sufficient legal grounds, the recorder may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>13</sup> If the recorder is convicted of a felony, the judgment of conviction must declare his office vacant.<sup>14</sup>

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>15</sup>

The recorder may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of these deputies and assistants, and their salaries must be not less than \$75 nor more than \$200 per

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<sup>10</sup> Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>11</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>12</sup> Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1939 suppl., 49-1009; Baldwin, 1937 suppl., 7539. *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

<sup>13</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>14</sup> Acts 1897, 1899; Burns 49-834; Baldwin, 13050.

<sup>15</sup> Const., art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Hedley v. Board of County Comrs.* (1835), 4 Blackf. 131; *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. *State ex rel. Ault v. Long* (1883), 91 Ind. 351. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

month.<sup>16</sup> The recorder may require any deputy to give bond.<sup>17</sup> The deputies must take the oath required of the recorder, may perform all the official duties of the recorder, and are subject to the same regulations and penalties.<sup>18</sup> The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.<sup>19</sup>

Formerly the auditor, recorder, and clerk of the circuit court had charge of the county library, and constituted a board of trustees for that purpose. The board was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated for the library, and make loans of the surplus library fund, and was required to make an annual report to the board of commissioners.<sup>20</sup> Several years ago the library was discontinued.

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and common pleas court.<sup>21</sup>

The recorder records, in specific books and files (other than the miscellaneous record), the following items: Deeds;<sup>22</sup>

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>17</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>19</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>20</sup> Acts 1816-17, ch. 28; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503; Baldwin 10321 note. Acts 1861; Burns 41-507; Baldwin 10321 note. Traylor v. Dykins (1883), 91 Ind. 229.

<sup>21</sup> 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

<sup>22</sup> Acts 1817-18 (general), ch. 28, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 8, sec. 6. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith (1834), 97 Ind. 466.

Cemetery records. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds. Acts 1881 (Spec. Sess.), ch. 96, sec. 211.

Deeds connected with school fund loans. Acts 1899; Burns 28-255; Baldwin 6607.

land patents;<sup>23</sup> mortgages, and satisfactions, releases, and assignments thereof;<sup>24</sup> federal tax lien notices, and satisfactions and releases thereof;<sup>25</sup> satisfactions of vendors' liens;<sup>26</sup> maps and plats;<sup>27</sup> decrees quieting title to lands;<sup>28</sup> farm names;<sup>29</sup> marks and brands of animals;<sup>30</sup> soldiers' and sailors' discharge papers;<sup>31</sup> old-age assistance awards;<sup>32</sup> special assessments against lands benefited by ditches and drains;<sup>33</sup> contracts waiving liens of laborers, materialmen, and building contractors;<sup>34</sup> and certificates revoking the

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<sup>23</sup> "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

<sup>24</sup> Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, sec. 1. Rev. Stat. 1838, ch. 85, sec. 9. Rev. Stat. 1843, ch. 8, sec. 6. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Build. & L. Sav. Assn. v. Thompson (1881), 87 Ind. 278; Mechanics' Build. Assn. v. Whitacre (1884), 92 Ind. 547; Chandler v. Scott (1891), 127 Ind. 226, 26 N. E. 797; State ex rel. McCoy v. Krost (1894), 140 Ind. 41, 39 N. E. 46.

Chattel mortgages. Rev. Stat. 1838, ch. 85, sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20). Acts 1935; Burns, 1939 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13327-17.

School fund loans. Acts 1836-37 (general), ch. 2, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. Stockwell v. State ex rel. Johnson (1885), 101 Ind. 1.

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

<sup>25</sup> Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

<sup>26</sup> Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

<sup>27</sup> Rev. Laws 1831, ch. 77, sec. 7. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>28</sup> Acts 1911; Burns 3-1409; Baldwin 968.

<sup>29</sup> Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

<sup>30</sup> Acts 1835-36 (general), ch. 24, sec. 1. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

<sup>31</sup> Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

<sup>32</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

<sup>33</sup> Acts 1907, ch. 252, sec. 6 (repealed by Acts 1933, ch. 264, sec. 81).

<sup>34</sup> Acts 1921, ch. 56, sec. 1.

admission of foreign corporations to do business in this state.<sup>35</sup> Formerly he recorded, in specific books, mechanics' liens<sup>36</sup> and the official bonds of the coroner, sheriff, and commissioner of school lands.<sup>37</sup>

The recorder keeps a miscellaneous record in which he records the following documents: Leases of lands;<sup>38</sup> powers of attorney;<sup>39</sup> surveys establishing meridian line;<sup>40</sup> leases of rolling stock and equipment of railroads;<sup>41</sup> statutory liens of laborers, materialmen,<sup>42</sup> transfermen,<sup>43</sup> and owners of stallions;<sup>44</sup> probated wills;<sup>45</sup> surveyor's field notes;<sup>46</sup> fence marks;<sup>47</sup> official bonds of the clerk of the circuit court;<sup>48</sup> limited partnerships;<sup>49</sup> statements of express companies;<sup>50</sup>

<sup>35</sup> Acts 1929; Burns 25-311; Baldwin 4969.

<sup>36</sup> 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182.

<sup>37</sup> Acts 1816-17, ch. 13, sec. 3. Rev. Laws 1824, ch. 100, sec. 3. Acts 1828-29, ch. 84, sec. 8. Rev. Stat. 1843, ch. 4, sec. 89.

<sup>38</sup> 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120.

<sup>39</sup> Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

<sup>40</sup> Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

<sup>41</sup> Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

<sup>42</sup> Rev. Stat. 1838, ch. 69, sec. 7. 2 Rev. Stat. 1852, ch. 1, sec. 650. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State ex rel. Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

<sup>43</sup> Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

<sup>44</sup> Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3793.

<sup>45</sup> Miscellaneous record not specified. Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the dead record. Acts 1933; Burns 7-713; Baldwin 3414.

<sup>46</sup> Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>47</sup> Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

<sup>48</sup> Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

<sup>49</sup> Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

<sup>50</sup> Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

indentures of apprentices;<sup>51</sup> notices of disputes of easements;<sup>52</sup> inheritance tax receipts;<sup>53</sup> charters and proceedings of corporations and associations;<sup>54</sup> conditional sales of fixtures;<sup>55</sup> and other documents presented for recording (not mentioned in the preceding paragraph) which no law requires to be recorded in a separate or specific book or file.<sup>56</sup> Formerly he recorded, in the miscellaneous record, dentists' certificates of registration.<sup>57</sup> The recorders of Allen County started keeping the miscellaneous record in 1856 and have kept said record continuously since then. Documents of the kinds recorded in the miscellaneous record after 1856 were recorded in the deed record before 1856. Recorders in all of the counties started keeping miscellaneous records about the same time, though no statute has ever required the keeping of such record. The general assembly has on several occasions required that certain specified documents be recorded in the miscellaneous record, and thus recognized the custom of the recorders in keeping such record.<sup>58</sup>

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,<sup>59</sup> and

<sup>51</sup> Rev. Laws 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law requires a separate record to be kept. *Ibid.*

<sup>52</sup> 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

<sup>53</sup> Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labelled "transfer tax."

<sup>54</sup> Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-325, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; Burns 25-3602; Baldwin 9280-2.

<sup>55</sup> Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires a separate record to be kept. *Ibid.*

<sup>56</sup> Rev. Laws 1831, ch. 77, sec. 7. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471.

<sup>57</sup> Acts 1887, ch. 32, sec. 9 (repealed by Acts 1899, ch. 211, sec. 29).

<sup>58</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>59</sup> Rev. Laws 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

the intangible tax thereon (if any) must be paid.<sup>60</sup> For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and the auditor has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>61</sup>

The recorder keeps an entry book in which he enters, as filed, all instruments delivered to him for recording, noting the day and hour received, which time is the legal date of recording.<sup>62</sup> He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office.<sup>63</sup> He is required to index the deeds, mortgages, and other instruments recorded by him.<sup>64</sup>

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners. Such method has never been used generally by the recorder of Allen County.<sup>65</sup>

<sup>60</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>61</sup> 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>62</sup> Acts 1817-18 (general), ch. 28, sec. 10. Rev. Laws 1831, ch. 77, sec. 4. Rev. Stat. 1843, ch. 8, sec. 6. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.* (1865), 26 Ind. 179; *Holman v. Doran* (1877), 56 Ind. 358; *Gilchrist v. Gough* (1878), 63 Ind. 576; *Moore v. Glover* (1886), 115 Ind. 367, 16 N. E. 163.

<sup>63</sup> Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308; Baldwin 7566. Acts 1895; Burns 49-1401; Baldwin 7576.

<sup>64</sup> Acts 1825, ch. 44, sec. 1. Rev. Laws 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. *Garrett v. Board of County Comrs.* (1883), 92 Ind. 518.

Deeds. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. *Turpen v. Board of County Comrs.* (1855), 7 Ind. 172; *State ex rel. Board of County Comrs. v. Atkinson* (1861), 17 Ind. 26.

Mortgages. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. *Gilchrist v. Gough* (1878), 63 Ind. 576; *Reeder v. State ex rel. Harlan* (1884), 98 Ind. 114.

Index to chattel mortgage minute book. Acts 1935; Burns, 1939 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1939 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

<sup>65</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

The state board of accounts (created in 1909) prescribes forms of books, reports, accounts, and records for the use or disposition of all recorders for their powers and duties which concern or affect the accounting for public funds.<sup>66</sup>

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.<sup>67</sup>

The books and accounts of the recorder are examined, from time to time without notice, by the state examiner.<sup>68</sup>

#### ENTRY OF INSTRUMENTS FOR RECORDING

##### 102. ENTRY BOOK, 1836-. 64 vols. (1-64).

Record of instruments filed for recording, showing dates of instrument and filing, names of principals, nature of instrument, amounts of consideration and fee, and volume and page reference to recording. Also contains: Fee and Cash Book, 1845-88, 1896- June 14, 1900, entry 149. Arr. chron. by dates of filing. No index. Hdw. 500 pp. 18 x 24 x 3½. Recr. off.

#### LAND TRANSFERS

##### DEEDS AND TITLES

##### 103. DEED RECORD, 1824-. 361 vols. (A-Y, 26-361).

Transcripts of deeds conveying titles to real property, showing dates of deed and recording, names of grantor and grantee, amount of consideration, and description and location of property. Also contains: Tax Title Deed Record, 1824-54, 1832-, entry 107; Quiet Title Record, 1824-1910, entry 108; Cemetery Deed Record, 1824-1925, entry 110; Mortgage Record, 1824-45, entry 114; Chattel Mortgage Record, 1824-45, entry 118; Mechanics Liens, 1824-55, entry 126; Miscellaneous Record, 1824-55, entry 130. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate deed index, see entry 104; for separate mortgage index, see

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<sup>66</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>67</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>68</sup> Acts 1909; Burns 60-211; Baldwin 13862.

entry 113. 1824-1905, hdw.; 1906-, typed. 550 pp. 20 x 14 x 3½. Recr. off.

For transcripts, 1824-43, 1855, 1857-59, 1863-64, 1866-69, see entry 105.

104. GENERAL INDEX TO DEEDS, 1824-. 47 vols. (numbering varies).

General index to Deed Record, entries 103 and 105, showing dates of instrument and recording, names of principals, nature of instrument, and volume and page reference to recording. Arr. alph. by names of principals. Hdw. 220 pp. 18 x 12 x 2. Recr. off.

105. DEED RECORD, 1824-43, 1855, 1857-59, 1863-64, 1866-69. 11 vols. (A-D, D, L, R, Y, 31, 42, 45). Transcripts of deed records, showing same information as entry 103. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate index, see entry 104. Hdw. 550 pp. 20 x 14 x 3½. Recr. off.

106. [DEEDS AND MORTGAGES], 1892-. 64 f. b. (labelled by years).

Original deeds and mortgages left for recording and uncalled for, showing date, nature and number of instrument, names of principals, description and location of property, date of recording, and volume and page reference to Mortgage Record, entry 114, Chattel Mortgage Record, entry 118. Arr. alph. by names of principals. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

107. TAX TITLE DEED RECORD, 1855-81. 1 vol. 1824-54, 1882- in Deed Record, entry 103.

Transcripts of deeds for conveyance of titles to real property sold for nonpayment of taxes, showing dates of sale, deed and recording, names of grantor and grantee, description and location of property, amount of consideration, and term allowed for redemption. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees. Hdw. 550 pp. 18 x 14 x 3½. Recr. off.

For tax sale record, see entry 381.

108. QUIET TITLE RECORD, 1911-. 3 vols. (1-3). 1824-1910 in Deed Record, entry 103.

Transcripts of proceedings and judgments rendered in court actions involving titles to real property, showing dates of proceedings and judgment, names of plaintiff and defendant, location and description of property, and disposition. Arr. chron. by dates of judgments. For index, see entry 109. Typed. 500 pp. 18 x 15 x 4. Recr. off.

109. GENERAL INDEX TO QUIET TITLE RECORD, 1911-. 1 vol. (1). Partial index to Quiet Title Record, entry 108, showing dates of filing, judgment and recording, name of plaintiff, description and location of property, and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. Recr. off.

110. CEMETERY DEED RECORD, 1926-. 2 vols. (1, 2). 1824-1925 in Deed Record, entry 103.

Transcripts of deeds conveying titles to cemetery lots, showing dates of deed and recording, names of grantor and grantee, amount of consideration, description and location of lot, and instrument number. Arr. num. by instrument nos. Indexed alph. by names of grantors and grantees. Typed. 600 pp. 20 x 14 x 4. Recr. off.

PLATS (see also entries 391-397).

111. PLAT RECORD, 1825-. 16 vols. (0-15).

Plats of additions and subdivisions of cities and towns, showing dates of survey and recording, name and number of plat, names of owners and surveyor, and description and location of plat. Arr. by names of plats. For index, see entry 112. 1825-June 26, 1926, hdw.; June 27, 1926-, photostat. 110 pp. 24 x 22 x 3½. Recr. off.

112. INDEX TO PLATS, 1825-. 1 vol.

Index to Plat Record, entry 111, showing date of plat, name of owner, description and location of property, and volume and page reference to recording. Arr. alph. by names of plats. Hdw. and typed. 400 pp. 16 x 10 x 3½. Recr. off.

#### MORTGAGE TRANSACTIONS

##### REAL ESTATE

113. GENERAL INDEX TO MORTGAGES, 1829-. 41 vols. (1, 1, 2-5, 5, 6, 6, 7, 7-37).

General index to mortgages recorded in Deed Record, 1829-45, entry 103, Mortgage Record, 1846-, entry 114, showing date of recording, names of mortgagor and mortgagee, and location and description of property. Arr. alph. by names of mortgagors and mortgagees. Hdw. 500 pp. 20 x 14 x 3½. Recr. off.

114. MORTGAGE RECORD, 1846-. 406 vols. (1-357, 359-371, 373-375, 377, 378, 380-384, 386, 387, 390, 391, 393-413). 1824-45 in Deed Record, entry 103.

Transcripts of mortgages executed to secure loans on real property, showing dates of mortgage and recording, date no-

tarized, names of mortgagor and mortgagee, description and location of property, amounts of mortgage, interest and payments, and marginal releases until July 1916. Also contains: School Fund Loans, 1846-1930, entry 115; Chattel Mortgage Record, 1846-86, entry 118. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors and mortgagees; for separate index, see entry 113. 1846-1905, hdw.; 1906-, typed. 580 pp. 20 x 14 x 3½. Recr. off.

115. SCHOOL FUND LOANS, 1931-. 1 vol. (358). 1846-1930 in Mortgage Record, entry 114.

Transcripts of mortgages on real estate executed to secure school fund loans, showing dates of mortgage and maturity, name of mortgagor, description and location of property, and amount and term of mortgage. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors. Typed. 580 pp. 20 x 14 x 3½. Recr. off.

For other school fund records, see entries 312, 318, 398-400.

116. HOME OWNERS LOAN CORPORATION MORTGAGES, 1934-. 7 vols. (372, 376, 379, 385, 388, 389, 392).

Record of real estate mortgages executed to secure Home Owners' Loan Corporation loans, showing dates of mortgage and recording, names of mortgagor and mortgagee, amount and conditions of mortgage, rate of interest, and location and description of property. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors. Typed. 580 pp. 20 x 14 x 3½. Recr. off.

#### CHATTEL

117. CHATTEL MORTGAGE MINUTE BOOK, 1935-. 2 vols. (1, 2).

Abstracts of mortgages executed to secure loans on personal property, showing date, number and amount of mortgage, names of mortgagor and mortgagee, time of filing, and date of maturity. Arr. num. by mortgage nos. Indexed alph. by names of mortgagors. Hdw. 800 pp. 24 x 20 x 6. Recr. off.

For prior records, see entry 118.

118. CHATTEL MORTGAGE RECORD, 1887-June 25, 1935. 132 vols. (1-132). 1824-45 in Deed Record, entry 103. 1846-86 in Mortgage Record, entry 114.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage and recording, names of mortgagor and mortgagee, description and location of property, amounts and conditions of mortgage and payments, and marginal

releases until July 1916. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate index, 1926-35, see entry 119. 1887-1904, hdw.; 1905-35, typed. 550 pp. 20 x 14 x 2. Recr. off.

For subsequent records, see entry 117.

119. INDEX TO CHATTEL MORTGAGES, 1926-35. 5 vols. (1-5).

Discontinued.

Partial index to Chattel Mortgage Record, entry 118, showing date of recording, names of mortgagor and mortgagee, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 760 pp. 20 x 14 x 2½. Recr. off.

120. CHATTEL MORTGAGES, 1904-. 63 f.b.

Original chattel mortgages executed to secure loans on personal property, showing dates of mortgage and recording, names of mortgagor, mortgagee and notary, description and location of chattels, amounts and conditions of mortgage and payments, date notarized, and mortgage number. Arr. alph. by names of mortgagors. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

121. CHATTEL MORTGAGE RECEIPTS, 1935-. 4 vols.

Duplicates of receipts given mortgagors for original chattel mortgages filed, showing dates of filing and receipt, names of mortgagor and mortgagee, number and amount of mortgage, and receipt number. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 14 x 9 x 1½. Recr. off.

#### RELEASES AND ASSIGNMENTS

122. DAILY BLOTTER, BOOK OF RELEASES, 1916-. 13 vols. Daily entry book of releases and assignments, showing date of release or assignment, names of mortgagor and mortgagee, nature and amount of instrument, and volume and page reference to Release and Assignment Record, entry 123. Arr. chron. by dates of instruments. No index. Hdw. 250 pp. 18 x 10 x 1½. Recr. off.

123. RELEASE AND ASSIGNMENT RECORD, Aug. 1916-. 25 vols. (1-25).

Record of releases and assignments of satisfaction of instruments recorded, showing dates of release and assignment, names of mortgagor, mortgagee and assignee, nature and amount of instrument, certification of satisfaction, and volume and page reference to Mortgage Record, entry 114; Chattel Mortgage Minute Book, entry 117; Chattel Mortgage Record, entry 118; Miscellaneous Record, entry 130. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and assignees. Typed. 425 pp. 18 x 13 x 2. Recr. off.

## 124. MORTGAGE ASSIGNMENTS, 1902-. 2 f. b.

Original certificates of assignment transferring titles of mortgages, left for recording and uncalled for, showing dates of mortgage and assignment, names of mortgagor, mortgagee and assignee, description of mortgage, volume and page reference to Mortgage Record, entry 114, and Release and Assignment Record, entry 123. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

## 125. RELEASES, 1905-. 11 f. b.

Original releases left for recording and uncalled for, showing dates of release and recording, nature of instrument, and names of principals. Arr. chron. by dates of releases. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

## LIENS

## 126. MECHANICS LIENS, 1872-Mar. 13, 1882. 1 vol. 1824-55 in Deed Record, entry 103. 1856-71, 1883- in Miscellaneous Record, entry 130.

Record of liens executed on property to secure payment of costs for labor and material, showing dates of lien and recording, amount of lien, itemized statement of labor and material, names of lienor and lienee, location and description of property, and marginal releases. Arr. chron. by dates of recording. Indexed alph. by names of lienors and lienees. Hdw. 600 pp. 18 x 12 x 3. Recr. off.

## 127. FEDERAL TAX LIEN INDEX AND RECORD, 1925-. 1 vol.

Record of notices to attach property for nonpayment of internal revenue tax, showing dates of filing and release, name and address of taxpayer, nature and amount of tax, amount of accrued interest and penalty, and collector's identification serial number. Arr. alph. by names of taxpayers. No index. Hdw. 100 pp. 14 x 8½ x ½. Recr. off.

## MILITARY RECORDS

(See also entries 21, 22, 82)

## 128. SOLDIERS AND SAILORS RECORD, 1919-. 6 vols. (1-6).

Record of honorable discharges of soldiers, sailors, and marines, showing dates of enrollment, enlistment, discharge and recording, names of soldier, sailor or marine, and superior officers, serial number of enlistment, and military record. Arr. chron. by dates of recording. Indexed alph. by names of soldiers, sailors, and marines; for separate index, see entry 129. Typed. 500 pp. 18 x 15 x 4. Recr. off.

129. INDEX TO SOLDIERS AND SAILORS RECORD, 1919-. 1 vol. Index to Soldiers and Sailors Record, entry 128, showing dates of recording and discharge, name of soldier, sailor or marine, and volume and page reference to recording. Arr. alph. by names of soldiers, sailors, and marines. Typed. 200 pp. 9 x 11 x 1. Recr. off.

#### MISCELLANEOUS RECORDS

130. MISCELLANEOUS RECORD, 1856-. 101 vols. (1-101). 1824-55 in Deed Record, entry 103.

Transcripts of miscellaneous instruments, including: "

- i. Liens, showing same information as in entry 126. Arr. chron. by dates of instruments. Indexed alph. by names of lienors and lienees.
- ii. Articles of incorporation, showing date of articles, name of corporation, place of business, amount of capital stock, description of seal, and names of officers. Arr. chron. by dates of articles. Indexed alph. by names of corporations; for separate index, 1860-, see entry 132.
- iii. Leases, showing date and nature of lease, names of lessor and lessee, and date of recording. Arr. chron. by dates of leases. Indexed alph. by names of lessors and lessees; for separate index, 1916-, see entry 133.
- iv. Powers of attorney, showing dates of instrument and recording, names of appointer and appointee, and conditions and term of authorization. Arr. chron. by dates of instruments. Indexed alph. by names of appointers and appointees.
- v. Bills of sale, showing date and nature of bill, names of vendor and purchaser, amount of sale, and date of recording. Arr. chron. by dates of bills. Indexed alph. by names of vendors and purchasers.
- vi. Contracts, showing date and nature of contract, names of principals, and conditions of instrument. Arr. chron. by dates of contracts. Indexed alph. by names of principals.
- vii. Affidavits, showing dates of affidavit and recording and name and statement of affiant. Arr. chron. by dates of affidavits. Indexed alph. by names of affiants.

- viii. Wills, showing date of will, names of testator, executor and heirs, conditions of will, and date of recording. Arr. chron. by dates of wills. Indexed alph. by names of testators.
- ix. Assignments, showing date of assignment, names of assignor and assignee, amount and nature of assignment, and date of recording. Arr. chron. by dates of assignments. Indexed alph. by names of assignors and assignees.
- x. Resolutions, showing date of resolutions, name of organization, nature of resolutions, and date of recording. Arr. chron. by dates of resolutions. Indexed alph. by names of organizations.

Also contains: Mechanics Liens, 1856-71, 1883-, entry 126. For separate index, 1926-, see entry 131. 1856-Sept. 6, 1904, hdw.; Sept. 7, 1904-, typed. 550 pp. 20 x 14 x 3½. Recr. off.

131. GENERAL INDEX TO MISCELLANEOUS RECORD, 1926-. 9 vols. (1-9).

Partial index to Miscellaneous Record, entry 130, showing date of recording, names of principals, description of instrument, and volume and page reference to recording. Arr. alph. by names of principals. Hdw. 500 pp. 19 x 15 x 3. Recr. off.

132. CORPORATION INDEX, 1860-. 1 vol.

Index to articles of incorporation in Miscellaneous Record, entry 130, showing names of corporation and stockholders and volume and page reference to recording. Arr. alph. by names of corporations. Typed. 300 pp. 14 x 10 x 1½. Recr. off.

133. INDEX TO LEASES, 1916-. 1 vol.

Partial index to leases recorded in Miscellaneous Record, entry 130, showing names of lessor and lessee and volume and page reference to recording. Arr. alph. by names of lessors. Typed. 500 pp. 14 x 9½ x 2. Recr. off.

134. POWER OF ATTORNEY, 1893-. 2 f. b.

Power of attorney authorizations left for recording and uncalled for, showing dates of instrument and recording, names of appointer and appointee, conditions and term of authorization, and volume and page reference to Miscellaneous Record, entry 130. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

For other power of attorney records, see entries 84-86.

135. ELECTIONS, 1896-. 3 f. b.

Original certificates of elections of officers of churches, lodges, and fraternal organizations, left for recording and

uncalled for, showing dates of certification and recording, nature and number of certificate, names of officials elected, and volume and page reference to Miscellaneous Record, entry 130. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

136. LEASES AND BILLS OF SALE, 1901-. 3 f. b.

Original leases and bills of sale filed for recording and uncalled for, showing date and nature of instrument, names of principals, date of recording, and volume and page reference to Miscellaneous Record, entry 130. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

137. CONTRACTS AND AGREEMENTS, 1901-. 2 f. b.

Original contracts and articles of agreement filed for recording and uncalled for, showing date and nature of instrument, names of principals, amount and term of instrument, date of recording, and volume and page reference to Miscellaneous Record, entry 130. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

138. AFFIDAVITS, 1902-. 6 f. b.

Affidavits filed for recording and uncalled for, showing date and nature of affidavit, date of recording, name of affiant, and volume and page reference to Miscellaneous Record, entry 130. Arr. chron. by dates of recording. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

139. REGISTER OF FARM NAMES, 1913-. 1 vol.

Register of names assigned to farms by owners, showing date of registration, name of owner, and location and description of property. Arr. alph. by names of farms. No index. Hdw. and typed. 150 pp. 18 x 13 x 1½. Recr. off.

140. FARM RECORD, 1913-. 1 vol.

Duplicates of certificates issued by recorder to owners of farms for identification of farm names, showing date of certificate, names of owner and farm, description and location of farm, and certification of recorder. Arr. alph. by names of farms. No index. Hdw. and typed. 100 pp. 18 x 13 x 1. Recr. off.

141. RECORD OF DITCH ASSESSMENTS, 1913-. 2 vols. (1, 2).

Record of liens on property benefited by drainage projects for nonpayment of assessments by owners, showing dates of assessment, lien and recording, names of ditch, viewers, property owners and corporations affected, location and course of ditch, amounts of lien, benefits and assessments, and commissioners' final report. Arr. chron. by dates of recording. Indexed alph. by names of ditches. Typed. 350 pp. 18 x 12 x 3. Recr. off.

For other ditch records, see entries 35-38, 148, 488-492, 494.

142. BUILDING PERMIT RECORD, 1927-. 4 vols. (1, 1 vol. not numbered, 3, 4). Title varies: Building Contract Record, 1927-38, 2 vols. (1, 3).

Record of agreements that contractors assume full liability for any liens filed in connection with construction or repair of private property, showing dates of agreement and recording, names of owners and contractors, location and description of property, date notarized, and term and conditions of contract. Arr. chron. by dates of agreements. Indexed alph. by names of owners and contractors. 600 pp. 18 x 13 x 3. Recr. off.

143. REVOCATION OF ADMISSION OF CORPORATIONS, 1929-. 1 vol. Revocation notices issued by secretary of state on corporations failing to file financial reports, showing dates of notification, revocation and certification, name of corporation, nature of charge, transcript of hearing, and revocation and serial numbers. Arr. alph. by names of corporations. No index. Typed. 115 pp. 12 x 10 x 1. Recr. off.

144. [AFFIDAVITS OF INTANGIBLE TAX], 1933-. 16 f. b. Affidavits of payment of taxes on intangibles, showing date of recording, names of principal and affiant, statement of affiant, and volume and page reference to Release and Assignment Record, entry 123. Arr. alph. by names of affiants. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

For other intangible tax records, see entries 306, 307, 318.

145. ABSTRACT OF OLD AGE CERTIFICATES, 1936-. 1 vol. Abstracts of certificates of old-age assistance awards establishing liens against property of recipients, showing dates of certificate and recording, name of recipient, numbers of certificate and application, amount of award, and notation of satisfaction of county department of public welfare. Arr. chron. by dates of recording. Indexed alph. by names of recipients. Hdw. 210 pp. 17½ x 13 x 2. Recr. off.

For other old-age assistance records, see entries 146, 364, 438-445.

146. CERTIFICATES OF AWARD FOR OLD AGE ASSISTANCE, 1936-. 3 vols. (1-3).

Duplicate certificates of old-age assistance awards establishing liens against property of recipients, showing date and number of certificate, date of filing, name and address of recipient, amount of award, and certification of county welfare director. Arr. num. by certificate nos. No index. Hdw. 950 pp. 12 x 9½ x 5. Recr. off.

For other old-age assistance records, see entries 145, 364, 438-445.

147. [RECORD OF REGISTERED EARMARKS], 1824-77. 1 vol. Record of earmarks for identification of livestock, showing date of recording, names of owner and township, and description of earmark. Arr. alph. by names of twps., thereunder chron. by dates of recording. No index. Hdw. 350 pp. 15 x 10 x 2. Recr. off.

148. DRAINAGE COMMISSIONERS' CLEANOUT RECORD, 1925. 1 vol. Record of drainage commissioners' reports on Seeger, Hoffman and Viland ditches, including proceedings, contracts, and viewers' reports, showing dates of petition, establishment and completion, names of commissioners, principals and ditch, location of ditch, amounts assessed for easement and benefits, specifications, construction schedule, and final acceptance of reports. Arr. by names of ditches. No index. Typed. 100 pp. 15 x 9 x 1½. Recr. off.

For other ditch records, see entries 85-88, 141, 488-492, 494.

#### FEE AND CASH RECORDS

149. FEE AND CASH BOOK, 1900-. 51 vols. (1-51). 1845-Feb. 22, 1888, 1896-June 14, 1900 in Entry Book, entry 102.

Record of fees received for recording of instruments, showing date and source of receipt, name of payer, nature and number of instrument, and daily totals. Arr. chron. by dates of receipts. No index. 325 pp. 18 x 13 x 4. Recr. off.

### V. CIRCUIT COURT

The circuit court, established by the Constitution of 1816 and re-established by the Constitution of 1851, consists of one judge and has such jurisdiction as is prescribed by law. The judge is elected for a six-year term by the voters of the judicial circuit.<sup>1</sup> Allen County alone constitutes the thirty-eighth judicial circuit.<sup>2</sup> The official name of the court is "Allen Circuit Court."<sup>3</sup>

The judge of the circuit court is commissioned by the

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<sup>1</sup> Const. 1816, art. 5, secs. 1, 3-7. Const., art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258.

<sup>2</sup> Acts 1875, ch. 35, sec. 1.

<sup>3</sup> Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

governor,<sup>4</sup> and holds office until his successor is elected and qualified.<sup>5</sup> For three years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).<sup>6</sup> During the term for which he was elected, the judge cannot hold any office of trust or profit under the state, other than a judicial office;<sup>7</sup> and, while holding the office of judge of the circuit court, the judge must reside within the circuit,<sup>8</sup> must not hold any other lucrative office,<sup>9</sup> and must not practice law.<sup>10</sup> He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>11</sup>

The judge of the circuit court receives a regular salary of \$4,200 per year payable out of the state treasury. Additional compensation in an amount not exceeding \$2,800 per year, payable out of the county treasury, may be allowed to the judge by the board of commissioners, on petition of 20 resident freeholders of the county, and no appropriation by the county council is required.<sup>12</sup> The compensation of the judge cannot be diminished during his continuance in office.<sup>13</sup>

If the judge is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.<sup>14</sup> This is the only method by which the judge may be removed from office.<sup>15</sup>

Any vacancy in the office of judge of the circuit court is filled through appointment by the governor. At the next

<sup>4</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>5</sup> Const., art. 15, sec. 3.

<sup>6</sup> Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

<sup>7</sup> Const., art. 7, sec. 16.

<sup>8</sup> *Ibid.*, sec. 9.

<sup>9</sup> Const. 1816, art. 11, sec. 13. Const., art. 2, sec. 9.

<sup>10</sup> Acts 1905; Burns 10-3101; Baldwin 2635.

<sup>11</sup> Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin

2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>12</sup> Acts 1921; Burns 4-3209; Baldwin 1225.

<sup>13</sup> Const., art. 7, sec. 13.

<sup>14</sup> *Ibid.*, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

<sup>15</sup> State v. Dearth, 201 Ind. 1, 164 N. E. 489. Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>16</sup>

Under the Constitution of 1816 and an act of 1816, the circuit court consisted of a president judge, elected for the circuit by joint ballot of both houses of the general assembly, and two associate judges, elected in the county by the voters thereof.<sup>17</sup> These judges were commissioned by the governor of the state, and held office for the term of seven years.<sup>18</sup> Recess appointments of president judges were made by the governor when the general assembly was not in session.<sup>19</sup> The president alone, in the absence of the associate judges, or any two judges—the president and one associate judge, or two associate judges in the absence of the president—were competent to hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery.<sup>20</sup> The court had general jurisdiction at law and equity.<sup>21</sup> Acts of January 2, 1822 and February 11, 1825 provided that the two associate judges constitute a court—often called "the probate court"—with power to hear and determine all matters in relation to the settlement of decedents' estates, except where titles of real estate are brought in question.<sup>22</sup> Ever since the adoption of the Constitution of 1851, the circuit court has consisted of one judge elected by the voters of the judicial circuit for a six-year term.<sup>23</sup>

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<sup>16</sup> Const., art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-492, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State ex rel. Schortemeir, 197 Ind. 507, 151 N. E. 407.

<sup>17</sup> Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2. Acts 1817-18 (general), ch. 2, sec. 2. Rev. Laws 1824, ch. 24, sec. 2. Rev. Laws 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

<sup>18</sup> Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

<sup>19</sup> *Ibid.*, art. 4, sec. 9.

<sup>20</sup> *Ibid.*, art. 5, sec. 3.

<sup>21</sup> Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Rev. Laws 1824, ch. 24, secs. 4 to 6. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12. Rev. Stat. 1843, ch. 38, secs. 6-32.

<sup>22</sup> Acts 1821-22, ch. 73, sec. 4. Acts 1825, ch. 35, secs. 1-3.

<sup>23</sup> Const., art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

When organized in 1824,<sup>24</sup> Allen County was attached to the third judicial circuit, composed of the counties of Allen, Dearborn, Fayette, Franklin, Randolph, Ripley, Switzerland, Union, and Wayne.<sup>25</sup> In 1825 Allen County was transferred to the fifth judicial circuit, composed of the counties of Allen, Bartholomew, Decatur, Hamilton, Hendricks, Henry, Johnson, Marion, Monroe, Morgan, Rush, and Shelby;<sup>26</sup> but in 1826 Allen County was transferred back to the third circuit,<sup>27</sup> to which circuit Delaware County was added in 1828.<sup>28</sup> In 1830 Allen County was transferred to the sixth judicial circuit composed of the counties of Allen, Delaware, Elkhart, Fayette, Henry, Randolph, Rush, Union, and Wayne,<sup>29</sup> to which circuit La Grange County was added in 1832.<sup>30</sup> In 1833 Allen County was transferred to the eighth judicial circuit, composed of the counties of Allen, Carroll, Cass, Elkhart, Huntington, La Grange, La Porte, Miami, St. Joseph, and Wabash.<sup>31</sup> In 1834 Carroll County was omitted from this circuit.<sup>32</sup> In 1836 the counties of Adams, De Kalb, Fulton, Jay, Kosciusko, Marshall, Noble, Porter, Steuben, Wells, and Whitley were added to this circuit; and in the same year the counties of Elkhart, Fulton, Kosciusko, La Porte, Marshall, Porter, and St. Joseph were omitted.<sup>33</sup> The counties of Adams, Jay, and Wells were omitted in 1839, leaving in the eighth circuit the counties of Allen, Cass, De Kalb, Huntington, La Grange, Miami, Noble, Steuben, Wabash, and Whitley.<sup>34</sup> Carroll County was added to this circuit in 1840 and omitted on January 15, 1841.<sup>35</sup> On December 14, 1841 Allen County was transferred to the twelfth judicial circuit, composed of the counties of Adams, Allen, De Kalb, Huntington, La Grange, Noble, Steuben, Wells,

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<sup>24</sup> Rev. Laws 1824, ch. 18.

<sup>25</sup> Rev. Laws 1824, ch. 26, sec. 1.

<sup>26</sup> Rev. Laws 1824, ch. 26, sec. 1. Acts 1825, ch. 16, sec. 5.

<sup>27</sup> Acts 1825-26, ch. 11, sec. 1.

<sup>28</sup> Acts 1827-28, ch. 18, sec. 5.

<sup>29</sup> Acts 1829-30, ch. 23, sec. 15; ch. 28 (first act), sec. 1. Rev. Laws 1831, ch. 23, sec. 1.

<sup>30</sup> Acts 1831-32, ch. 117, sec. 6.

<sup>31</sup> Acts 1832-33, ch. 3, sec. 1.

<sup>32</sup> Acts 1833-34, ch. 37, sec. 1.

<sup>33</sup> Acts 1835-36 (general), ch. 8, secs. 1, 3; ch. 15, sec. 7; ch. 16, sec. 7; ch. 17, sec. 7; ch. 18, sec. 5; ch. 20, sec. 7; ch. 21, sec. 8. Acts 1836-37 (general), ch. 5, sec. 7.

<sup>34</sup> Acts 1838-39 (general), ch. 2, sec. 1.

<sup>35</sup> Acts 1839-40 (general), ch. 25, sec. 1. Acts 1840-41 (general), ch. 25, sec. 1.

and Whitley;<sup>36</sup> and in 1852 Allen County was transferred to the tenth judicial circuit composed of the counties of Adams, Allen, De Kalb, Elkhart, Huntington, Kosciusko, La Grange, Noble, Steuben, Wabash, Wells, and Whitley.<sup>37</sup> In 1869 several counties were omitted, leaving in the tenth circuit only the counties of Adams, Allen, Huntington, Wells, and Whitley.<sup>38</sup> In 1873 Allen County was transferred to the thirty-eighth judicial circuit composed of the counties of Allen and Whitley.<sup>39</sup> An act of March 9, 1875, which has not been repealed or modified, provided that the thirty-eighth judicial circuit be composed of Allen County alone, and that four terms of court be held in the county each year, the terms beginning on the first Monday in February, third Monday in April, first Monday in September, and third Monday in November, each term lasting 10 weeks if the business of the court so requires.<sup>40</sup> Before 1875 a great many laws were enacted by the general assembly for the purpose of regulating the commencement and duration of terms of court in Allen County.<sup>41</sup>

A probate court, consisting of one judge, was established in Allen County in 1829 under an act of that year. It had exclusive original jurisdiction over probate of wills, settlement of decedents' estates, and guardianships; and had original jurisdiction, concurrent with the circuit court, over dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. The judge was elected for a seven-year term by the voters of the

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<sup>36</sup> Acts 1841-42 (general), ch. 28, sec. 3.

<sup>37</sup> Acts 1851-52, ch. 21, sec. 10.

<sup>38</sup> Acts 1869 (Spec. Sess.), ch. 18, sec. 1.

<sup>39</sup> Acts 1873, ch. 29, sec. 39.

<sup>40</sup> Acts 1875, ch. 35, secs. 1, 4.

<sup>41</sup> Rev. Laws 1824, ch. 26, sec. 4. Acts 1825, ch. 16, sec. 5. Acts 1825-26, ch. 11, sec. 1. Acts 1827-28, ch. 18, sec. 5. Acts 1829-30, ch. 23 (second act), sec. 6. Rev. Laws 1831, ch. 23, sec. 7. Acts 1831-32, ch. 157, sec. 4. Acts 1832-33, ch. 3, sec. 2. Acts 1833-34, ch. 32, sec. 1. Acts 1834-35 (general), ch. 35, sec. 1. Acts 1835-36 (general), ch. 8, sec. 2. Acts 1836-37 (general), ch. 8, sec. 3. Rev. Stat. 1838, ch. 23 (eighth act), sec. 1. Acts 1838-39 (general), ch. 2, sec. 9. Acts 1839-40 (general), ch. 25, sec. 2. Acts 1840-41 (general), ch. 17, sec. 1; ch. 18, sec. 1. Acts 1841-42 (general), ch. 28, sec. 4. Acts 1842-43 (general), ch. 8, secs. 1, 4. Rev. Stat. 1843, ch. 38, secs. 21-23. Acts 1843-44 (general), ch. 8, sec. 1. Acts 1846-47 (general), ch. 116, sec. 3. Acts 1851-52, ch. 22, sec. 1; ch. 31, sec. 1. Acts 1853, ch. 23, sec. 1. Acts 1855, ch. 26, sec. 1. Acts 1857, ch. 19, secs. 1, 3. Acts 1858 (Spec. Sess.), ch. 12, sec. 1. Acts 1867, ch. 20, sec. 1. Acts 1869 (Spec. Sess.), ch. 18, sec. 1. Acts 1873, ch. 29, sec. 77.

county.<sup>42</sup> Originally the court held four terms each year, commencing on the second Monday of February, May, August, and November, each term lasting six days.<sup>43</sup> An act of January 13, 1845 provided that each session could last two weeks.<sup>44</sup> An act of December 22, 1845 provided for four terms each year, commencing on the third Monday in January, the second Monday in April, the first Monday in August, and the first Monday in November, each term lasting three weeks.<sup>45</sup> An act of January 2, 1847 reduced the length of the terms to two weeks.<sup>46</sup> An act of January 19, 1838 provided for four terms of court each year, beginning on the third Monday of March, May, August, and November.<sup>47</sup> An act of January 21, 1850 revived the act of January 13, 1845.<sup>48</sup> This court was abolished in 1853 and its jurisdiction was transferred to the common pleas court.<sup>49</sup>

A common pleas court, consisting of one judge, was established in Allen County in 1853. The judge was elected for a four-year term by the voters of the common pleas district, composed of the counties of Adams and Allen.<sup>50</sup> Originally the common pleas court held four terms of court each year, beginning on the first Monday of January, April, July, and October, each term lasting three weeks.<sup>51</sup> An act of March 4, 1853 enlarged the terms to four weeks each;<sup>52</sup> and the law, as amended by the act of 1853, was continued in effect by acts of March 3, 1855<sup>53</sup> and March 1, 1859.<sup>54</sup> The act of 1855 also authorized special terms for the completion of any business scheduled for regular terms and remaining unfinished at ad-

<sup>42</sup> Const. 1816, art. 5, sec. 4. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-13.

<sup>43</sup> Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40.

<sup>44</sup> Acts 1844-45 (general), ch. 108, sec. 1. Acts 1844-45 (local), ch. 138, sec. 1.

<sup>45</sup> Acts 1845-46 (general), ch. 60, secs. 1, 2.

<sup>46</sup> Acts 1846-47 (general), ch. 72, sec. 2.

<sup>47</sup> Acts 1847-48 (general), ch. 40, sec. 1.

<sup>48</sup> Acts 1849-50 (general), ch. 58, secs. 1, 2.

<sup>49</sup> 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins, 4 Ind. 305.

<sup>50</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins, 4 Ind. 305.

<sup>51</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 29, 30, p. 21.

<sup>52</sup> Acts 1853, ch. 33, sec. 1.

<sup>53</sup> Acts 1855, ch. 27, sec. 2.

<sup>54</sup> Acts 1859, ch. 51, sec. 3.

journment of the term.<sup>55</sup> An act of March 1, 1859 provided that the judicial district be composed of the counties of Adams, Allen, Huntington, and Wells.<sup>56</sup> An act of March 5, 1859, effective October 1, 1860, provided for four terms in the county each year, beginning on the Monday next following the close of the sessions in Huntington County, each term lasting four weeks.<sup>57</sup> Acts of May 23, 1861, January 27, 1863, and March 7, 1863 provided that there be only three terms in the county each year.<sup>58</sup> An act of January 27, 1869 provided that the terms in the county could last as long as the business of the court required.<sup>59</sup> The common pleas court had exclusive original jurisdiction over probate of wills, settlement of decedents' estates, and guardianships; and had original jurisdiction at law and in equity, concurrent with the circuit court, over other matters (except felonies punishable by death, slander, libel, breach of marriage contract, titles to real estate, actions on bonds of state and county officers, and actions to recover \$1,000 or more, of which the circuit court had exclusive original jurisdiction).<sup>60</sup> The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court.<sup>61</sup>

The constitution provides for tribunals of conciliation with such powers and duties as may be prescribed by law, but without power to render an enforceable judgment in the absence of agreement of the parties to abide the judgment of such tribunal.<sup>62</sup> Accordingly, the general assembly, by an act of 1852 which became effective in 1853, established in the county a court of conciliation, to be held by the judge of the common pleas court. It had jurisdiction of claims and controversies submitted to it for the purpose of effecting a compromise or for determination. In cases of libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could have the opposite party served with

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<sup>55</sup> Acts 1855, ch. 27, sec. 94.

<sup>56</sup> Acts 1859, ch. 51, sec. 1.

This district, composed of said counties, was officially designated "the twentieth district."

Acts 1861, ch. 28, sec. 1.

<sup>57</sup> Acts 1859, ch. 47, secs. 20, 23.

<sup>58</sup> Acts 1861 (Spec. Sess.), ch. 21, sec. 1. Acts 1863, ch. 12, sec. 1; ch. 30, sec. 1.

<sup>59</sup> Acts 1869, ch. 21, sec. 1.

<sup>60</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 11, 12, 14, 17, 21, 23.

<sup>61</sup> Acts 1873; Burns 4-328; Baldwin 1417.

<sup>62</sup> Const., art. 7, sec. 19.

a notice requiring him to appear before the court. Hearings were private and informal. Controversies submitted by both parties to the court for determination were determined according to right and conscience without regard to technical rules. The judge was required to keep a book containing a memorandum of proceedings and the judgment.<sup>63</sup> This court was abolished in 1865.<sup>64</sup>

A criminal circuit court, consisting of one judge, was established in the county in 1867. It had exclusive original jurisdiction over criminal cases. The judge was elected for a four-year term by the voters of the county. The court held two terms of court each year, beginning on the first Monday of April and October; and each term could last six months if the business of the court so required.<sup>65</sup> This court was abolished in 1884, and its jurisdiction was transferred to the circuit court.<sup>66</sup>

The Superior Court of Allen County and the Allen Superior Court No. 2 were established in the county in 1877 and 1927, respectively. Both courts are still in existence, and are discussed in separate essays in this book.<sup>67</sup>

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior courts have concurrent original jurisdiction of all civil cases at law and in equity, except the matters mentioned in the following paragraph.<sup>68</sup>

Allen Superior Court No. 2 has exclusive original jurisdiction of lunacy proceedings, trusts, guardianships, surviving partnerships, probate and construction of wills, administration of estates of decedents and insolvents, and all other probate matters.<sup>69</sup> The circuit court has exclusive original jurisdiction in juvenile matters, and is known as the "Juvenile Court" when exercising such jurisdiction.<sup>70</sup>

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<sup>63</sup> 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 1-3, 5-8, 12, 13, 18, 20. *Jones v. Cavins* (1853), 4 Ind. 305.

<sup>64</sup> Acts 1865 (Spec. Sess.), ch. 57.

<sup>65</sup> Const., art. 15, sec. 2. Acts 1865 (Spec. Sess.), ch. 45, sec. 1. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1869 (Spec. Sess.), ch. 21, sec. 6.

<sup>66</sup> Acts 1883, ch. 29 (effective October 31, 1884).

<sup>67</sup> Acts 1877, ch. 31. Acts 1927, ch. 63.

<sup>68</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>69</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>70</sup> *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl.,

The circuit court and superior courts have concurrent appellate jurisdiction to review decisions—the superior courts being confined to civil actions and proceedings—<sup>71</sup> of justices of the peace,<sup>72</sup> city courts,<sup>73</sup> board of commissioners,<sup>74</sup> board of review fixing value of property for taxation,<sup>75</sup> taxing authorities determining that property is taxable,<sup>76</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions),<sup>77</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>78</sup>

From the time of the creation of the Superior Court of Allen County in 1877 until the creation of Allen Superior Court No. 2 in 1927, the circuit court had exclusive original jurisdiction in all matters of which Allen Superior Court No. 2 now has exclusive original jurisdiction.<sup>79</sup>

The circuit court and superior courts have concurrent original jurisdiction of naturalization proceedings under the federal laws,<sup>80</sup> but are prevented from exercising such jurisdiction by the failure of the United States Department of Labor to furnish the necessary forms.

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to issue all process;<sup>81</sup> and to adopt rules for conducting its business.<sup>82</sup> The circuit court has power to transfer causes to the Superior Court of Allen County and the Allen Superior Court No. 2; the superior courts have power to transfer causes to the circuit court;

<sup>71</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>72</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>73</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>74</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State ex rel. Sink v. Circuit Court, —Ind.—, 15 N. E. (2d) 624.

<sup>75</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>76</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>77</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>78</sup> Hamilton v. Fort Wayne, 73 Ind. 1.

<sup>79</sup> Acts 1903, ch. 237, sec. 1. Acts 1913, ch. 325, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873; Burns 4-328; Baldwin 1417. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>80</sup> Acts of Congress 1906, 1911, 1913; U. S. C. title 8, sec. 357.

<sup>81</sup> 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400.

<sup>82</sup> 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

and such transferred causes may proceed as if originally commenced in the court to which they were transferred.<sup>83</sup> The judge is a conservator of the peace throughout his judicial circuit.<sup>84</sup>

The chief officers of the circuit court are the sheriff, the prosecuting attorney, and the clerk of the circuit court. The sheriff, in person or by deputy, attends the circuit court, preserves order therein, and serves all process directed to him therefrom.<sup>85</sup> The prosecuting attorney prosecutes the pleas of the state in the circuit court.<sup>86</sup> The clerk of the circuit court, in person or by deputy, attends the circuit court, performs the customary duties of clerk during trials, draws up each day's proceedings at full length in the proper order book which is signed by the circuit judge, and enters a complete record of causes after completion thereof.<sup>87</sup> All causes are filed in the office of the clerk of the circuit court, and numbered in consecutive order as filed.<sup>88</sup> The clerk is also charged by statute with the duty of keeping and preserving the official records of the court.<sup>89</sup>

#### CIVIL CAUSES

(See also entry 197, 198, 206, 207)

#### ENTRY OF CAUSES

150. FEE BOOK [Entry, Issue Docket and Fee Book], 1914-.  
10 vols. (26-35).

Record of filing of actions, causes set for trial, and fees assessed in civil causes, showing cause number, date of filing, nature of action, names of plaintiff, defendant and attorneys, amount and nature of fees, and disposition. This is a combination of three records formerly kept separately: Entry Docket, Civil, 1859-1913, entry 151; Issue Docket, 1845-1913, entry 152; Fee Book, 1838-1913, entry 206. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 350 pp. 18 x 13 x 3. Clk. off.

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<sup>83</sup> Acts 1905; Burns 4-304; Baldwin 1419 note. Acts 1911; Burns 4-401; Baldwin 1419. Acts 1927; Burns 4-621; Baldwin 1471.

<sup>84</sup> Const. 1816, art. 5, sec. 5. Const., art. 7, sec. 15.

<sup>85</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>86</sup> 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

<sup>87</sup> 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>88</sup> Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>89</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

151. ENTRY DOCKET CIVIL, 1859-1913. 7 vols. (1-7). 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 150.

Record of filing of actions in civil causes, showing cause number, date of filing, nature of action, and names of plaintiff and defendant. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 400 pp. 18 x 13 x 3. Clk. off.

152. ISSUE DOCKET, 1845-1913. 164 vols. (1-164). 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 150.

Record of causes set for trial, showing cause number, date of trial, nature of action, names of plaintiff and defendant, and disposition. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 200 pp. 16 x 12 x 1. Clk. off.

153. COMMON PLEAS ISSUE DOCKET, 1853-73. 10 vols.

Record of civil and criminal actions set for trial in common pleas court, showing dates of filing and trial, nature and number of cause, names of plaintiff, defendant, witnesses and attorneys, and proceedings and disposition of cause. Arr. num. by cause nos. No index. Hdw. 300 pp. 16 x 12 x 2. Clk. off.

#### ORIGINAL DOCUMENTS

154. [COURT DOCUMENTS], 1824-. 3652 f. b. (numbering varies).

Original documents filed in civil, criminal, estate and guardianship actions, including complaints, affidavits, motions, denials, bonds, appointments, inventories, appraisements, sale bills, claims, and reports, showing cause number, date of filing, names of plaintiff, defendant, estate, guardianship, administrator or executor, guardian and sureties, location and description of property, nature of action, and disposition of cause. No orderly arr. For index to civil and criminal documents, 1830-, see General Index of Judgments, entry 170; estate documents, 1852-, see Index to Estates, entry 237; guardianship documents, 1851-, see General Index to Guardianships, entry 238. Hdw. and typed. 11 x 5 x 14. Clk. off.

#### NATURALIZATION

155. DECLARATION OF INTENTION, 1892-1930. 21 vols. (2-10, 1-11, and 1 vol. not numbered). After 1930 in federal district court.

Record of declarations of intention of aliens to become U. S. citizens, showing date of declaration, name, age, birthplace

and personal description of alien, port of embarkment, date of arrival, oath of renunciation to native land, and affidavit of witness. Arr. chron. by dates of declarations. Indexed alph. by names of aliens. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

156. PETITION AND RECORD, 1844-1929. 16 vols. (1-16).

After 1929 in federal district court.

Record of petitions for and granting of final papers of citizenship to aliens, showing dates of declaration, petition and grant, name, age, personal description and birthplace of alien, ports of sailing and entry, renunciation of native land, and oath of allegiance to U. S. Arr. chron. by dates of petitions. Indexed alph. by names of petitioners. 600 pp. 18 x 13 x 3. Clk. off.

157. NATURALIZATION PAPERS, 1852-1929. 10 f.b. (785, 1761, 2064, 2738-41, 3183, 3442, 3445). After 1929 in federal district court.

Original instruments for naturalization of aliens, including petitions, hearings, correspondence, and court orders, showing dates of instrument and filing, names of applicant, witnesses and court, ports of embarkation and entry, and court actions. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

#### RECEIVERSHIPS

158. RECEIVERSHIP RECORD, 1871-79, 1912-26. 2 vols. (X, and 1 vol. not lettered). 1880-1911, 1927—in Order Book Civil, entry 165.

Record of actions and proceedings in receivership causes, showing dates of action, proceedings and judgment, names of claimants, receiver, insolvents and sureties, amounts of inventory, bond and judgment, and description of property. Arr. chron. by dates of actions. Indexed alph. by names of insolvents and receiverships. 1871-79, hdw.; 1912-26, typed. 600 pp. 18 x 13 x 3. Clk. off.

#### MINUTES

159. DISPOSED CIVIL DOCKET SHEETS, 1913—. 3 f. d.

Record of actions and proceedings in civil causes, showing dates of filing, trial, proceedings and disposition, names of plaintiff, defendant and attorneys, nature and number of cause, sheriff's return, orders, and disposition. Arr. num. by cause nos. For index, see entries 160, 161. Hdw. 16 x 20 x 27. Deputy clk. off., rm. 300.

For prior records, see entry 162.

## 160. INDEX BOOK CRIMINAL AND CIVIL, 1931-. 1 vol.

Partial index to Disposed Civil Docket Sheets, entry 159, and Disposed Criminal Docket Sheets, entry 188, showing cause number and names of plaintiff and defendant. This is a combination of two records formerly kept separately: Civil Docket [Index], 1913-30, entry 161; Criminal Docket [Index], 1913-30, entry 189. Arr. alph. by names of plaintiffs and defendants. Typed. 500 pp. 18 x 13 x 2½. Deputy clk. off., rm. 300.

## 161. CIVIL DOCKET [Index], 1913-30. 7 vols. 1931- in Index Book Criminal and Civil, entry 160.

Partial index to Disposed Civil Docket Sheets, entry 159, showing cause number and names of plaintiff and defendant. Arr. alph. by names of plaintiffs. Hdw. 100 pp. 16 x 12 x ½. Deputy clk. off., rm. 300.

## 162. COURT DOCKET-CIVIL, 1845-1912. 166 vols.

Record of actions and proceedings in civil causes, showing cause number, dates of filing, hearing and return on writs, names of plaintiff, defendant and attorneys, nature of action, proceedings, and final disposition. Arr. num. by cause nos. No index. Hdw. 100 pp. 15 x 12 x 1. Clk. off.

For subsequent records, see entry 159.

## 163. COMMON PLEAS COURT DOCKET, 1853-73. 13 vols.

Record of action and proceedings in civil and criminal causes in common pleas court, showing cause number, date and nature of action, names of plaintiff, defendant and attorneys, and final disposition. Arr. chron. by dates of actions. No index. Hdw. 300 pp. 16 x 12 x 2. Clk. off.

## 164. MINUTE BOOK, CHANCERY COURT, 1845-53. 2 vols. (1, 2).

Record of actions and proceedings in equity causes of chancery court, showing cause number, nature of action, names of plaintiff, defendant and attorneys, and final disposition. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. Hdw. 567 pp. 18 x 13 x 3. Clk. off.

## ORDERS

## 165. ORDER BOOK CIVIL, 1824-. 117 vols. (A-Z, 1-90, 87a).

Record of actions and proceedings in civil causes, showing dates of actions and proceedings, names of plaintiff, defendant and attorneys, and nature, number and disposition of cause. Also contains: Receivership Record, 1880-1911, 1927-, entry 158; Partition Record, 1912-, entry 167; Order Book [Criminal], 1824-63, 1885-, entry 191; Change of Venue, 1934-, entry 202; Insane Record, 1896-, entry 226; Surviving Partnerships, 1907-,

entry 241. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. 1824-1912, hdw.; 1913-, typed. 600 pp. 18 x 13 x 3. Clk. off.

166. INHERITANCE TAX RECORD, 1913-. 14 vols. (1-14). Record of orders determining value of estates for inheritance tax due, showing cause number, dates of decedent's death, order and recording, names of estate, appraiser, heirs and administrator or executor, inventory and appraised value of estate, amount of tax due from each heir, and deductions for claims, expenses, bequests and exemptions, and description and location of property. Arr. chron. by dates of orders. Indexed alph. by names of estates. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

For other inheritance-tax records, see entries 304, 316, 317.

167. PARTITION RECORD, 1872-1911. 8 vols. (1-8). 1912- in Order Book Civil, entry 165.

Transcripts of court decrees in partition actions for division of real property, showing cause number, dates of action and decree, names of plaintiff and defendant, location, description and appraised valuation of property, and nature of decree. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. 1872-1906, hdw.; 1907-, typed. 450 pp. 18 x 13 x 3. Clk. off.

168. COMMON PLEAS ORDER BOOK, 1853-78. 19 vols. (A-S). Record of orders and proceedings in civil and criminal causes in common pleas court, showing dates of order and proceedings, names of plaintiff, defendant, attorneys and witnesses, and disposition of cause. Arr. chron. by terms of courts. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### JUDGMENTS

169. JUDGMENT DOCKET [Circuit Court], 1830-. 31 vols. (1-31).

Record of judgments and decrees issued by circuit court in civil causes, 1830-, and probate causes, 1830-1926, showing dates of decree and recognizance bond, names of attorney, plaintiff, defendant, judgment debtor and sureties, and amount of judgment and costs. Also contains: Criminal Judgment Docket, 1830-77, 1885-, entry 194. Arr. chron. by dates of decrees. Indexed alph. by names of plaintiffs; for separate index, see entry 170. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

170. GENERAL INDEX OF JUDGMENTS, 1830-. 17 vols. (1-3, 3-16).

Index to civil and criminal causes in [Court Documents], entry

154, Judgment Docket [Circuit Court], entry 169, Judgment Docket [Superior Court of Allen County], entry 217, Judgment Docket [Allen Superior Court No. 2], entry 231, showing cause and file box numbers, names of plaintiff, defendant and court, and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants. Hdw. 300 pp. 18 x 13 x 13. Clk. off.

171. TRANSCRIPTS, 1831-. 25 f. b. (243-63, 2701, 2953, 3297, 3942).

Transcripts of judgments in justice of the peace courts appealed and causes venued from foreign counties, showing dates of filing, judgment, appeal and venue, names of plaintiff, defendant, appellant and court, amounts of judgment and costs, nature and number of action, proceedings, and certification of true copy by court. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Clk. off.

172. COMMON PLEAS JUDGMENT DOCKET, 1853-73. 3 vols. (1-3).

Record of judgments rendered in civil and criminal actions in common pleas court, showing cause number, dates of judgment and satisfaction, names of plaintiff, defendant and attorneys, and amounts of judgment and costs. Arr. chron. by dates of judgments. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

EXECUTIONS (see also entries 276-280)

173. EXECUTION DOCKET, 1825-. 18 vols. (A-R).

Record of execution of court decrees to satisfy judgments, showing dates of judgment and service, names of plaintiff, defendant and judgment debtor, cause number, and amounts of claims, costs and judgment. Arr. chron. by dates of executions. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

174. EXECUTIONS, CIRCUIT COURT, 1836-. 31 f. b. (10-33, 44, 2217, 2659, 3138, 3384, 4024).

Original writs to attach or levy on property and orders of sale of property to satisfy judgments, showing execution number, dates of writ, order and sale, amounts of judgment, sale and cost, names of plaintiff and defendant, location and description of property, and sheriff's return. Also contains: Sheriff's Certificate of Sale [Circuit Court], 1836-80, 1931-, entry 177. Arr. chron. by dates of writs. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

175. EXECUTION DOCKET [Common Pleas], 1853-73. 5 vols. (1-5).

Record of writs for execution of judgments in common pleas court, showing dates of issue, return and decree, names of plaintiff, defendant and judgment debtor, kind of writ, number of execution, amounts of interest, costs and judgment. Arr. chron. by dates of issue. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

176. EXECUTIONS, COMMON PLEAS COURT, 1853-73. 8 f. b. (1-8).

Original writs to attach or levy on property, orders of sale of property, and certificates of sale issued to purchasers of property sold to satisfy judgments, showing dates of judgment, writ, order, certificate and sale, amounts of judgment, sale and cost, names of plaintiff, defendant and purchaser, location and description of property, and sheriff's return. Arr. chron. by dates of writs. No index. Hdw. 11 x 5 x 14. Clk. off.

177. SHERIFF'S CERTIFICATES OF SALE [Circuit Court], 1881-1930. 5 f. b. (72, 82, 83, 2773, 3171). 1836-80, 1931- in executions, Circuit Court, entry 174.

Certificates issued to purchasers of property sold to satisfy judgments, showing dates of certificate, judgment and sale, names of plaintiff, defendant and purchaser, description of property, and amounts of judgment, interest, cost and sale. Also contains: [Sheriff's Certificates of Sale, Superior Court of Allen County], 1881-1930, entry 220; [Sheriff's Certificates of Sale, Superior Court No. 2], 1927-30, entry 234. Arr. chron. by dates of certificates. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

178. PRAECIPE RECORD, 1883-. 8 vols. Title varies: Issue Docket, 1883-1917.

Record of orders of plaintiff or attorneys to clerk to prepare or issue to sheriff writs for execution, showing cause number, dates of judgment and order, and names of plaintiff, defendant and attorneys. Arr. chron. by dates of orders. No index. Hdw. 400 pp. 9 x 7 x 2. Clk. off.

179. PRAECIPE APPEALS TO APPELLATE AND SUPREME COURT, 1905-. 3 vols.

Orders from attorneys requesting clerk to prepare transcripts of causes for appeal, showing dates of order and transcript, names of plaintiff, defendant and attorneys, and certification of clerk. Arr. chron. by dates of orders. No index. Hdw. 175 pp. 12 x 10 x 1½. Clk. off.

180. LIS PENDENS RECORD [Notice of Attachment], 1379-.  
2 vols. (1, 2).

Record of sheriff's notices of levy or attachment of property to be sold to satisfy judgments, showing date of notice, names of plaintiff, defendant, attorneys and court, description of property, and nature of levy. Arr. chron. by dates of notices. Indexed alph. by names of plaintiffs and defendants. 1879-1900, hdw.; 1901-, typed. 600 pp. 18 x 13 x 3. Clk. off.

181. LIS PENDENS, SHERIFF'S CERTIFICATE OF SALES, 1881-. 6 vols. (2-7).

Transcripts of sales certificates issued to purchasers of property sold to satisfy judgments, showing dates of certificate and judgment, names of plaintiff, defendant and purchaser, description of property, and procedure of sale. Arr. chron. by dates of certificates. Indexed alph. by names of plaintiffs and defendants. 1881-Oct. 1932, hdw.; Nov. 1932-, typed. 600 pp. 18 x 13 x 3. Clk. off.

182. REDEMPTION RECORD, STATEMENTS AND AFFIDAVITS, 1879-.  
1 vol.

Record of statements and affidavits of right to redeem property sold to satisfy judgments, 1879-1926, and original statements attached, 1927-, showing dates of statement and affidavit, names of redeemer, plaintiff and defendant, description of property, reason and proof for redemption, and volume and page reference to Execution Docket, entry 173, Lis Pendens Record [Notice of Attachment,] entry 180, and Lis Pendens, Certificates of Redemption, entry 183. Arr. chron. by dates of affidavits. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

183. LIS PENDENS, CERTIFICATES OF REDEMPTION, 1879-. 1 vol.  
Record of certificates of redemption of property sold to satisfy judgments, 1879-Aug. 14, 1929, and original certificates attached Aug. 16, 1929-, showing dates of judgment, sale and redemption, names of plaintiff, defendant, court and redeemer, description of property, amounts of judgment, redemption and costs, and volume and page reference to Lis Pendens, Sheriff's Certificate of Sales, entry 181. Arr. chron. by dates of certificates. Indexed alph. by names of plaintiffs. 1879-Aug. 14, 1929, hdw.; Aug. 16, 1929-, typed. 600 pp. 18 x 13 x 3. Clk. off.

#### COMPLETE TRANSCRIPTS

184. FINAL RECORD, COMMON PLEAS, 1852-73. 7 vols. (A-G).  
Complete record of proceedings in civil causes, showing dates

of filing and proceedings, names of plaintiff and defendant, issue of summons, execution and foreclosures, and nature and disposition of cause. Arr. chron. by dates of proceedings. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### CRIMINAL CAUSES

(See also entries 153, 154, 160, 163, 168, 170, 172, 197, 200, 203, 204)

#### AFFIDAVITS AND INDICTMENTS

185. INDICTMENT RECORD, 1853-. 11 vols.

Transcripts of true bills returned of indictments after investigation by grand juries, showing dates of indictment, hearing and transcript, names of defendant, state's witnesses and attorney, nature of charge, and affidavits of prosecuting attorney and clerk. Arr. chron. by dates of transcripts. Indexed alph. by names of defendants. 1853-June 1900, hdw.; July 1900-, typed. 300 pp. 18 x 13 x 3. Clk. off.

#### BONDS

186. CRIMINAL BOND RECORD, 1885-. 4 vols.

Transcripts of bonds posted to insure defendants' appearance in court, showing date, amount and conditions of bond, names of defendant and sureties, and sureties' affidavit of property owned. Arr. chron. by dates of bonds. Indexed alph. by names of defendants. Hdw. 450 pp. 14 x 9 x 2. Clk. off.

187. CRIMINAL BONDS, 1892-. 14 f. b. (9, 2763, 2764, 3109, 3222, 3329, 3437, 3625, 3794, 3820, 3829-3832).

Original bonds posted to insure defendants' appearance in court, showing date, amount and conditions of bond, names of defendant and sureties, term of court, and nature of charge. Arr. chron. by dates of bonds. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### MINUTES

188. DISPOSED CRIMINAL DOCKET SHEETS, 1918-. 2 f. d.

Record of actions and proceedings in criminal causes, showing dates of filing, trial and disposition, names of prosecutor, defendant and attorney, nature and number of cause, proceedings, and disposition. Arr. num. by cause nos. For index, 1918-30, see entry 189; 1931-, see entry 160. Hdw. 16 x 20 x 27. Deputy clk. off., rm. 300.

For prior records, see entry 190.

189. CRIMINAL DOCKET [Index], 1918-30. 1 vol. 1931- in Index Book Criminal and Civil, entry 160.

Partial index to Disposed Criminal Docket Sheets, entry 188, showing cause number and name of defendant. Arr. alph. by names of defendants. Hdw. 150 pp. 14 x 9 x 1. Deputy clk. off., rm. 300.

190. CRIMINAL DOCKET, 1846-1917. 151 vols. Title varies: Bench Docket, 1849-66.

Record of actions and proceedings in criminal causes, showing dates of filing, trial and disposition, names of prosecutor, defendant and attorney, nature and number of cause, proceedings, and disposition. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 200 pp. 16 x 12 x 2. Clk. off.

For subsequent records, see entry 188.

#### ORDERS

191. ORDER BOOK [Criminal], 1864-84. 10 vols. (A-J). 1824-63, 1885- in Order Book Civil, entry 165.

Record of proceedings and decrees in criminal causes, showing dates of filing and proceedings, names of plaintiff, defendant, witnesses and attorneys, and nature, number and disposition of cause. Arr. chron. by dates of proceedings. Indexed alph. by names of defendants. Hdw. 600 pp. 13 x 13 x 3. Clk. off.

192. COMMON PLEAS PARTITION RECORD [Ewing Estate], 1857-68. 1 vol.

Transcripts of actions and proceedings for division of property of Ewing Estate, showing cause number, dates of action and decree, names of plaintiff and defendant, location and description of property, commissioner's and appraiser's report, and final decree. Arr. chron. by dates of actions. No index. Hdw. 279 pp. 18 x 13 x 2. Clk. off.

#### COMPLETE TRANSCRIPTS

193. COMPLETE RECORD CRIMINAL, 1870-84. 2 vols. (1, 2). Discontinued.

Complete transcripts of proceedings in criminal causes, showing date of proceedings, names of plaintiff and defendant, and number, nature and disposition of cause. Arr. chron. by dates of action. Indexed alph. by names of defendants. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### JUDGMENTS

194. CRIMINAL JUDGMENT DOCKET, 1878-84. 1 vol. (A). 1830-77, 1885- in Judgment Docket, entry 169.

Record of judgments issued by circuit court in criminal causes.

showing date of judgment, name of defendant, amounts of court costs and judgment, and volume and page reference to Order Book [Criminal], entry 191. Arr. chron. by dates of judgments. Indexed alph. by names of defendants. Hdw. 285 pp. 18 x 13 x 3. Clk. off.

#### JUVENILE CAUSES

(See also entries 154, 205)

195. JUVENILE COURT DOCKET, 1921-. 4 vols.

Minutes of actions and proceedings in juvenile causes, showing dates of filing and action, nature and number of cause, names of plaintiff, defendant, attorneys and witnesses, and disposition of cause. Arr. chron. by dates of actions. Indexed alph. by names of defendants. Hdw. 650 pp. 9 x 14 x 4. Deputy clk. off., rm. 300.

196. JUVENILE ORDER BOOK, 1932-. 3 vols. (1-3).

Transcripts of orders and proceedings in juvenile causes, showing dates of order and proceedings, names of plaintiff, defendant and attorneys, nature and number of cause, and disposition. Arr. num. by cause nos. Indexed alph. by names of defendants. Typed. 600 pp. 18 x 13 x 3. Deputy clk. off., rm. 300.

#### MISCELLANEOUS RECORDS

##### BONDS

197. [MISCELLANEOUS BONDS], 1850- 23 f. b. (1012, 2325, 2326, 2998, 3108, 3205, 3225, 3294, 3410, 3501, 3603, 3656, 3728, 3804, 3821, 3823-3826, 3938, 3966, 4078, 4156).

Original bonds in civil and criminal causes, including appeal, recognizance, receivership, replevin, attachment, appearance, contractors' bonds for construction of public works, and commissioners' bonds for sale of real estate, showing dates of bond, filing and acceptance, names of principal and sureties, and nature, amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

198. PLAINTIFF'S COSTS, 1921-. 12 f. b. (1012, 2341, 2342, 2764, 2944, 3108, 3205, 3225, 3294, 3410, 3501, 4156).

Original bonds posted by plaintiffs to insure payment of costs in civil actions, showing dates of filing and approval, names of plaintiff, defendant and sureties, nature of cause, and amount, term and conditions of bond. Arr. chron. by dates of bonds. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

## DEPOSITIONS

199. DEPOSITIONS, 1883-. 15 f. b. (2358-2360, 2521, 2525-2530, 2593, 2594, 2880-2882).

Statements of testimony taken of witnesses unable to appear in court, showing dates of filing, testimony and notarization, names of plaintiff, defendant, attorneys, witnesses and court, and all questions asked and answers given. Arr. chron. by dates of filing. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

## JURIES

200. [GRAND JURY REPORTS], 1884-. 3 f. b. (786-788).

True bills returned by grand jury charging criminal offenses, including reports of inspection of county institutions, showing term of court, date of inspection, names of jurors, judge, defendant and state witnesses, and number and nature of cause. Arr. chron. by dates of reports. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

201. JURY TIME BOOK CIRCUIT COURT, 1881-1917, 1922-34, 1937-. 18 vols.

Record of time served and fees allowed for jury duty, showing dates of service and fees paid, term of court, name and address of juror, number of miles travelled and days served, rate per day for service and mileage, total amount due juror, and receipt of payment. Arr. chron. by court terms. No index. Hdw. 100 pp. 14 x 9 x 1. 14 vols., 1881-1917, sher. off.; 4 vols., 1922-34, 1937-, cir. ct. rm.

## CHANGE OF VENUE (see also entries 355, 365)

202. CHANGE OF VENUE, 1898-1933. 2 vols. (1, 2). 1934- in Order Book Civil, entry 165.

Record of causes venued from other counties, showing cause number, date of venue, nature of action, names of plaintiff, defendant, county and court, and itemized statement of costs. Arr. chron. by dates of venue. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

## PAROLES

203. PAROLES AND DISCHARGES, 1918-24, 1931-. 2 f. b. (2660, 4195).

Certificates of parole, discharge, commutation and suspension of sentence and revocation of parole of prisoners convicted in circuit court, showing date of certificate, names of prisoner and official issuing certificate, nature of certificates and action taken. Arr. chron. by dates of certificate. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

## FEE AND CASH RECORDS

204. FINE AND FEE DOCKET-CRIMINAL, 1879-. 7 vols. (2-8). Docket of fines and costs assessed in criminal causes, showing dates of hearing and judgment, name of defendant, type of action, itemized and total amounts of fines and fees, and receipt of satisfaction. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

205. FINE AND FEE DOCKET JUVENILE, 1931-. 1 vol. Record of fees, fines and costs in criminal juvenile causes, showing date, number and nature of cause, date of judgment, names of plaintiff and defendant, and amounts of fees, fines and costs. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

206. FEE BOOK, 1838-1913. 25 vols. (1-25). 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 150.

Record of fees assessed in civil actions, showing cause number, nature of action, names of plaintiff and defendant, nature and amount of fees, and date of payment. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

207. CIVIL FEE BOOK [Common Pleas Court], 1853-73. 9 vols. (1-9).

Record of fees and costs in civil and criminal actions, showing date of judgment, names of plaintiff and defendant, nature and number of cause, amounts of fees and costs, and payments received. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 340 pp. 20 x 8 x 2½. Clk. off.

## VI. SUPERIOR COURT OF ALLEN COUNTY

The Superior Court of Allen County, established in Allen County in 1877, consists of one judge elected for a four-year term by the voters of the county. Allen County alone constitutes the judicial district. The official name of the court is "Superior Court of Allen County."<sup>1</sup> "Allen Superior Court No. 2" is the official name of a separate court established in the county in 1927 and discussed in a separate essay.<sup>2</sup>

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<sup>1</sup> Acts 1877; Burns 4-501, 4-505, 4-510; Baldwin 1450-1, 1450-5, 1450-10.

<sup>2</sup> Acts 1927; Burns 4-601; Baldwin 1451.

The judge of the Superior Court of Allen County is commissioned by the governor,<sup>3</sup> and holds office until his successor is elected and qualified.<sup>4</sup> For three years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).<sup>5</sup> During the term for which he was elected, the judge of the Superior Court of Allen County cannot hold any office of trust or profit under the state, other than a judicial office;<sup>6</sup> and while holding the office of judge of the Superior Court of Allen County, the judge must not hold any other lucrative office<sup>7</sup> and must not practice law.<sup>8</sup> He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>9</sup>

The judge of the Superior Court of Allen County receives a regular salary of \$4,200 per year payable out of the state treasury. Additional compensation in an amount not exceeding \$2,800 per year, payable out of the county treasury, may be allowed to the judge by the board of commissioners, on petition of 20 resident freeholders of the county; and no appropriation by the county council is required.<sup>10</sup>

If the judge is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.<sup>11</sup> This is the only method by which the judge may be removed from office.<sup>12</sup>

Any vacancy in the office of judge of the Superior Court of Allen County is filled through appointment by the governor. At the next biennial general election (held on the first Tuesday

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<sup>3</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>4</sup> Const., art. 15, sec. 3. Acts 1877; Burns 4-501; Baldwin 1450-1.

<sup>5</sup> Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

<sup>6</sup> Const., art. 7, sec. 16.

<sup>7</sup> Const. 1816, art. 11, sec. 13. Const., art. 2, sec. 9.

<sup>8</sup> Acts 1905; Burns 10-3101; Baldwin 2635.

<sup>9</sup> Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin

2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Acts 1921; Burns 4-3209; Baldwin 1225.

<sup>11</sup> Const., art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

<sup>12</sup> State v. Dearth, 201 Ind. 1, 164 N. E. 489; Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take an oath as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>13</sup>

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior courts have concurrent original jurisdiction of all civil cases at law and in equity, except the matters mentioned in the following paragraph.<sup>14</sup>

Allen Superior Court No. 2 has exclusive original jurisdiction of lunacy proceedings, trusts, guardianships, surviving partnerships, probate and construction of wills, administration of estates of decedents and insolvents, and all other probate matters.<sup>15</sup> The circuit court has exclusive original jurisdiction in juvenile matters, and is known as the "Juvenile Court" when exercising such jurisdiction.<sup>16</sup>

The circuit court and superior courts have concurrent appellate jurisdiction to review decisions—the superior courts being confined to civil actions and proceedings—<sup>17</sup> of justices of the peace,<sup>18</sup> city courts,<sup>19</sup> board of commissioners,<sup>20</sup> board of review fixing value of property for taxation,<sup>21</sup> taxing authorities determining that property is taxable,<sup>22</sup> board of public works or board of park commissioners of any city in

<sup>13</sup> Const., art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State ex rel. Schortemeier, 197 Ind. 507, 151 N. E. 407.

<sup>14</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>15</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>16</sup> *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1929 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

<sup>17</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510. Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>18</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>19</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>20</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State ex rel. Sink v. Circuit Court,—Ind.—, 15 N. E. (2d) 624.

<sup>21</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>22</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

the county (or city council performing such functions),<sup>23</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>24</sup>

From the time of the creation of the Superior Court of Allen County in 1877 until the creation of Allen Superior Court No. 2, in 1927, the circuit court had exclusive original jurisdiction in all matters of which Allen Superior Court No. 2 now has exclusive original jurisdiction.<sup>25</sup>

The circuit court and superior courts have concurrent original jurisdiction of naturalization proceedings under the federal laws,<sup>26</sup> but are prevented from exercising such jurisdiction by the failure of the United States Department of Labor to furnish the necessary printed forms.

The judgments, decrees, orders, and proceedings of the Superior Court of Allen County have the same force and effect as those of the Allen Circuit Court, and are enforced in the same manner.<sup>27</sup> Many writs and orders can be granted by the court in vacation as well as in session.<sup>28</sup> The court adopts rules for conducting its business and can compel attendance of witnesses, punish for contempt, and enforce its orders. The judge can administer oaths, solemnize marriages, take acknowledgments of deeds, give all necessary certificates for the authentication of the records and proceedings of the court,<sup>29</sup> and is a conservator of the peace throughout the county.<sup>30</sup> The circuit court has power to transfer causes to the Superior Court of Allen County and the Allen Superior Court No. 2; the superior courts have power to transfer causes to the circuit court; and such transferred causes may proceed as if originally commenced in the court to which they were transferred.<sup>31</sup>

Terms of court begin on the second Monday in January, the first Monday in April, the second Monday in September,

<sup>23</sup> Acts 1933; Burns 43-4501; Baldwin 11576.

<sup>24</sup> Hamilton v. Fort Wayne, 73 Ind. 1.

<sup>25</sup> Acts 1903, ch. 237, sec. 1. Acts 1913, ch. 325, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873; Burns 4-328; Baldwin 1417. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>26</sup> Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357.

<sup>27</sup> Acts 1877; Burns 4-512; Baldwin 1450-12.

<sup>28</sup> Acts 1877; Burns 4-513, 4-514; Baldwin 1450-13, 1450-14.

<sup>29</sup> Acts 1877; Burns 4-515; Baldwin 1450-15.

<sup>30</sup> Const., art 7, sec 15.

<sup>31</sup> Acts 1905; Burns 4-304; Baldwin 1419 note. Acts 1911; Burns 4-401; Baldwin 1419. Acts 1927; Burns 4-621; Baldwin 1471.

and the second Monday in November, each year, and last as long as the business of the court requires.<sup>32</sup>

The clerk of the circuit court and the sheriff of the county are, respectively, the clerk and the sheriff of the Superior Court of Allen County; and as such, they, in person or by deputy, attend all sessions of this court and discharge in this court all duties which they are required by law to perform in the circuit court.<sup>33</sup>

Under the direction of the judge, the clerk provides order books, judgment dockets, execution dockets, fee books, and such other books as may be necessary to the functioning of the court. All books, papers, and proceedings of the Superior Court of Allen County are kept distinct and separate from those of other courts.<sup>34</sup>

#### CIVIL CAUSES

(See also entry 154)

#### ENTRY OF CAUSES

208. FEE BOOK [Entry, Issue Docket and Fee Book], 1914-. 44 vols. (16-59).

Record of filing of actions, causes set for trial, and fees assessed in civil causes, showing cause number, dates of filing and trial, nature of action, names of plaintiff and defendant, and amount and nature of fees. This is a combination of three records formerly kept separately: Entry Docket, 1877-1913, entry 209; Issue Docket, 1877-1913, entry 210; Fee Book, 1877-1913, entry 222. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 4. Clk. off.

209. ENTRY DOCKET, 1877-1913. 11 vols. (1-11). 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 208.

Record of filing of actions in civil causes, showing cause number, date of filing, nature of action, and names of plaintiff, defendant and attorney. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

210. ISSUE DOCKET, 1877-1913. 137 vols. 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 208.

Record of civil causes set for trial, showing cause number,

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<sup>32</sup> Acts 1877; Burns 4-506; Baldwin 1450-6.

<sup>33</sup> Acts 1877; Burns 4-503, 4-504; Baldwin 1450-3, 1450-4.

<sup>34</sup> Acts 1877; Burns 4-518; Baldwin 1450-18.

date of trial, nature of action, names of plaintiff, defendant and attorneys, and action of court. Arr. chron. by dates of trials. No Index. 290 pp. 18 x 12 x 1. Clk. off.

#### MINUTES

211. INDEX SUPERIOR COURT OF ALLEN COUNTY, 1923-. 5 vols. Index to [Pending Causes], entry 212, and [Disposed of Causes], entry 213, showing cause number, names of plaintiff and defendant, and if pending or disposed of. Arr. alph. by names of plaintiffs and defendants. Typed. 600 pp. 18 x 13 x 3. Ct. rm., Supr. Ct. of Allen County.

212. [PENDING CAUSES], 1923-. 2 f. d. 1878-1922 in Court Docket, entry 214.

Record of actions and proceedings in civil causes, showing cause number, date of action, names of plaintiff, defendant and attorneys, nature of action, and court orders. Arr. num. by cause nos. For index, see entry 211. Hdw. 16 x 20 x 27. Ct. rm., Supr. Ct. of Allen County.

213. [DISPOSED OF CAUSES], 1923-. 11 f. d. 1878-1922 in Court Docket, entry 214.

Record of actions and proceedings in civil causes, showing cause number, date of action, names of plaintiff, defendant and attorneys, nature of action, court orders, and final disposition. Arr. num. by cause nos. For index, see entry 211. Hdw. 16 x 20 x 27. 9 f. d., 1923-35, deputy clk. off., rm. 303; 2 f. d., 1936-, ct. rm., Supr. Ct. of Allen County.

214. COURT DOCKET, 1878-1922. 146 vols.

Record of actions and proceedings in civil causes, showing cause number, date of action, names of plaintiff, defendant and attorneys, and nature of action and settlement. This is a combination of two records later kept separately: [Pending Causes], 1923-, entry 212; [Disposed of Causes], 1923-, entry 213. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 1. Clk. off.

#### ORDERS

215. ORDER BOOK, 1877-. 120 vols. (A-Z, 1-94).

Record of actions and proceedings in civil causes, showing date of action, names of plaintiff, defendant and attorneys, number and nature of cause, amounts of judgment and costs, and disposition. Also contains: Partition Record, 1917-, entry 216; Final Record, 1922-, entry 221. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. 1877-1915, hdw.; 1916-, typed. 600 pp. 18 x 13 x 3. Clk. off.

216. PARTITION RECORD, 1878-1916. 2 vols. (1, 2). 1917- in Order Book, entry 215.

Record of proceedings and decrees in civil actions for division of real property, showing dates of action and appointment of appraiser and commissioners, names of plaintiff, defendant and attorneys, and number, nature and disposition of cause. Arr. chron. by dates of actions. Indexed. alph. by names of plaintiffs. 1877-1900, hdw.; 1901-16, typed. 600 pp. 18 x 13 x 3. Clk. off.

#### JUDGMENTS

217. JUDGMENT DOCKET [Superior Court of Allen County], 1877-. 35 vols. (1-35).

Record of judgments rendered in civil causes, showing dates of judgment and satisfaction, names of plaintiff, defendant, attorneys and judgment debtor, nature and amount of judgment and costs, and receipt of satisfaction. Arr. chron. by dates of judgments. Indexed alph. by names of plaintiffs; for separate index, see entry 170. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

#### EXECUTIONS (see also entries 276-280)

218. EXECUTION DOCKET, 1877-. 11 vols. (1-11).

Record of writs issued by court for execution by sheriff to satisfy judgments, showing dates of writ and judgment, names of plaintiff, defendant and judgment debtor, nature and number of writ, amounts of judgment and costs, and sheriff's return. Arr. num. by execution nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

219. EXECUTIONS, SUPERIOR COURT OF ALLEN COUNTY, 1877-. 33 f. b. (45-55, 2032, 2218, 2554, 2769, 2945, 3051, 3161, 3383, 3584, 3624, 3635, 3914, 3915, 3932, 3953, 3978, 4028-4030, 4059, 4119, 4252).

Original writs to attach or levy on property and orders of sale of property to satisfy judgments, showing dates of judgment, writ and order, amount of judgment, names of plaintiff and defendant, location and description of property, and sheriff's return. Also contains: [Sheriff's Certificates of Sale, Superior Court of Allen County], 1877-80, 1931-, entry 220. Arr. chron. by dates of writs. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

220. [SHERIFF'S CERTIFICATES OF SALE, SUPERIOR COURT OF ALLEN COUNTY], 1881-1930 in Sheriff's Certificates of Sale [Circuit Court], entry 177; 1877-80, 1931- in Executions, Superior Court of Allen County, entry 219. Certificates issued to purchaser of property sold to satisfy

judgments, showing dates of judgment, certificate and sale, names of plaintiff, defendant and purchaser, description of property, and amounts of judgment, interest, cost and sale.

#### COMPLETE TRANSCRIPTS

221. FINAL RECORD, 1878-1921. 17 vols. (1-17). 1922- in Order Book, entry 215.

Transcripts of actions and proceedings in quiet title causes, showing dates of complaint, action and proceedings, names of plaintiff, defendant and court, notice of publication, and reports of appraiser and sale. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. 1878-1900, hdw.; 1901-21, typed. 600 pp. 18 x 13 x 3. Clk. off.

#### FEE AND CASH RECORDS

222. FEE BOOK, 1877-1913. 15 vols. (1-15). 1914- in Fee Book [Entry, Issue Docket and Fee Book], entry 208.

Record of fees assessed in civil actions, showing cause number, nature of action, names of plaintiff and defendant, and amount and nature of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

223. MONTHLY JURY TIME BOOK SUPERIOR COURT OF ALLEN COUNTY, 1892-. 11 vols.

Record of time served and fees allowed for jury duty, showing dates of service and fees paid, term of court, name and address of juror, number of miles travelled and days served, rate per day for service and mileage, total amount due juror, and receipt of payment. Arr. chron. by terms of court. No index. Hdw. 200 pp. 14 x 9 x 1. 10 vols., 1892-1930, sher. off.; 1 vol., 1931-, ct. rm., Supr. Ct. of Allen Co.

## VII. ALLEN SUPERIOR COURT NO. 2

Allen Superior Court No. 2, established in Allen County in 1927, consists of one judge elected for a four-year term by the voters of the county. Allen County alone constitutes the judicial district. The official name of the court is "Allen Superior Court No. 2".<sup>1</sup> "Superior Court of Allen

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<sup>1</sup> Acts 1927, 1929; Burns 4-601, 4-603, 4-608, 4-609; Baldwin 1451, 1453, 1458, 1459.

County" is the official name of a separate court established in the county in 1877 and discussed in a separate essay.<sup>2</sup>

The judge of the Allen Superior Court No. 2 is commissioned by the governor,<sup>3</sup> and holds office until his successor is elected and qualified.<sup>4</sup> For three years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law or acted as an officer of the state or municipality therein during said time (the periods of practice, teaching, and holding office to be combined).<sup>5</sup> During the term for which he was elected, the judge of Allen Superior Court No. 2 cannot hold any office of trust or profit under the state, other than a judicial office;<sup>6</sup> and, while holding the office of judge of Allen Superior Court No. 2, the judge must not hold any other lucrative office<sup>7</sup> and must not practice law.<sup>8</sup> He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>9</sup>

The judge of Allen Superior Court No. 2 receives a regular salary of \$4,200 per year payable out of the state treasury. Additional compensation, in an amount not exceeding \$2,800 per year, payable out of the county treasury, may be allowed to the judge by the board of commissioners, on petition of 20 resident freeholders of the county; and no appropriation by the county council is required.<sup>10</sup>

If the judge is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.<sup>11</sup> This is the only method by which the judge may be removed from office.<sup>12</sup>

<sup>2</sup> Acts 1877; Burns 4-501; Baldwin 1450-1.

<sup>3</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095. Acts 1927, 1929; Burns 4-609; Baldwin 1459.

<sup>4</sup> Const., art. 15, sec. 3. Acts 1927, 1929; Burns 4-609; Baldwin 1459.

<sup>5</sup> Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

<sup>6</sup> Const., art. 7, sec. 16.

<sup>7</sup> Const. 1816, art. 11, sec. 13. Const., art. 2, sec. 9.

<sup>8</sup> Acts 1905; Burns 10-3101; Baldwin 2635.

<sup>9</sup> Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Acts 1927; Burns 4-610; Baldwin 1460. Acts 1907; Burns 4-2922; Baldwin 1799. Acts 1921; Burns 4-3209; Baldwin 1225.

<sup>11</sup> Const., art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

<sup>12</sup> State v. Dearth, 201 Ind. 1, 164 N. E. 489; Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

Any vacancy in the office of judge of Allen Superior Court No. 2 is filled through appointment by the governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take an oath as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>13</sup>

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior courts have concurrent original jurisdiction of all civil cases at law and in equity, except the matters mentioned in the following paragraph.<sup>14</sup>

Allen Superior Court No. 2 has exclusive original jurisdiction of lunacy proceedings, trusts, guardianships, surviving partnerships, probate and construction of wills, administration of estates of decedents and insolvents, and all other probate matters.<sup>15</sup> The circuit court has exclusive original jurisdiction in juvenile matters, and is known as the "Juvenile Court" when exercising such jurisdiction.<sup>16</sup>

The circuit court and superior courts have concurrent appellate jurisdiction to review decisions—the superior courts being confined to civil actions and proceedings—<sup>17</sup> of justices of the peace,<sup>18</sup> city courts,<sup>19</sup> board of commissioners,<sup>20</sup> board of review fixing value of property for taxation,<sup>21</sup> taxing

<sup>13</sup> Const., art. 5, sec. 18. Acts 1927, 1929; Burns 4-609; Baldwin 1459. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State ex rel. Schortemeier, 197 Ind. 507, 151 N. E. 407.

<sup>14</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>15</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>16</sup> *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

<sup>17</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>18</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>19</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>20</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State ex rel. Sink v. Circuit Court, —Ind.—, 15 N. E. (2d) 624.

<sup>21</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

authorities determining that property is taxable,<sup>22</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions),<sup>23</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>24</sup>

From the time of the creation of the Superior Court of Allen County in 1877 until the creation of Allen Superior Court No. 2, in 1927, the circuit court had exclusive original jurisdiction in all matters of which Allen Superior Court No. 2 now has exclusive original jurisdiction.<sup>25</sup>

The circuit court and superior courts have concurrent original jurisdiction of naturalization proceedings under the federal laws,<sup>26</sup> but are prevented from exercising such jurisdiction by the failure of the United States Department of Labor to furnish the necessary printed forms.

The judgments, decrees, orders, and proceedings of Allen Superior Court No. 2 have the same force and effect as those of the Allen Circuit Court, and are enforced in the same manner.<sup>27</sup> Many writs and orders can be granted by the court in vacation as well as in session.<sup>28</sup> The court adopts rules for conducting its business and can compel attendance of witnesses, punish for contempt, and enforce its orders. The judge can administer oaths, solemnize marriages, take acknowledgments of deeds, give all necessary certificates for the authentication of the records and proceedings of the court,<sup>29</sup> and is a conservator of the peace throughout the county.<sup>30</sup> The judge is authorized to appoint bailiffs, clerical assistants, a probate commissioner, and a court reporter.<sup>31</sup> The circuit court has power to transfer causes to the Superior Court of Allen County and the Allen Superior Court No. 2; the superior courts have power to transfer causes to the circuit court; and such

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<sup>22</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>23</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>24</sup> *Hamilton v. Fort Wayne*, 73 Ind. 1.

<sup>25</sup> Acts 1903, ch. 237, sec. 1. Acts 1913, ch. 325, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873; Burns 4-328; Baldwin 1417. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

<sup>26</sup> Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357.

<sup>27</sup> Acts 1927; Burns 4-604; Baldwin 1454.

<sup>28</sup> Acts 1927; Burns 4-606; Baldwin 1456.

<sup>29</sup> Acts 1927; Burns 4-605; Baldwin 1455.

<sup>30</sup> Const., art. 7, sec. 15.

<sup>31</sup> Acts 1927; Burns 4-615 to 4-617; Baldwin 1465 to 1467.

transferred causes may proceed as if originally commenced in the court to which they were transferred.<sup>32</sup>

Terms of court begin on the second Monday in January, the first Monday in April, the second Monday in September, and the second Monday in November each year. Each term is named for the month in which it begins, and continues through the Saturday next preceding the commencement of the following term.<sup>33</sup>

The clerk of the circuit court and the sheriff of the county are, respectively, the clerk and sheriff of Allen Superior Court No. 2; and as such, they, in person or by deputy, attend all sessions of this court and discharge in this court all duties which they are required by law to perform in the circuit court.<sup>34</sup>

Under the direction of the judge, the clerk provides order books, judgment dockets, execution dockets, fee books, and such other books as may be necessary to the functioning of the court. All books, papers, and proceedings of Allen Superior Court No. 2 are kept distinct and separate from those of other courts, and the records of all civil cases are kept apart from the records of probate matters.<sup>35</sup>

#### CIVIL CAUSES

(See also entries 154, 267)

#### ENTRY OF CAUSES

224. ENTRY DOCKET, 1927-. 3 vols. (1-3).

Record of causes filed for action, showing dates of filing and issuing of writs, names of plaintiff, defendant and attorneys, cause number, and nature of action. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### SANITY

225. INSANITY CASES, 1848-. 81 f. b. (2599-2632, 3865-3911).

Original instruments for commitment of insane to state institutions, including petitions, medical examiners' reports, requisitions for clothing, discharge and recommittal papers.

<sup>32</sup> Acts 1905; Burns 4-304; Baldwin 1419 note. Acts 1911; Burns 4-401; Baldwin 1419. Acts 1927; Burns 4-621; Baldwin 1471.

<sup>33</sup> Acts 1927; Burns 4-697; Baldwin 1457.

<sup>34</sup> Acts 1927; Burns 4-611, 4-612; Baldwin 1461, 1462.

<sup>35</sup> Acts 1927; Burns 4-614; Baldwin 1464.

showing dates of filing, hearing and commitment, names of petitioner, physician, patient and witnesses, cause number, and court orders. Arr. alph. by names of patients. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

226. INSANE RECORD, 1849-95. 5 vols. (1-5). 1896- in Order Book Civil, entry 165.

Record of actions and proceedings for commitment of patients to insane hospital, showing dates of petition, commitment, warrant, recommitment and discharge, names of petitioner, patient, medical examiners and witnesses, personal and family history of patient, and sheriff's return. Arr. chron. dates of petitions. Indexed alph. by names of patients. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

#### MINUTES

227. CIVIL INDEX, 1927-. 2 vols.

General index to Civil Actions Pending, entry 228, and Disposed of Civil Actions, entry 229, showing whether pending or disposed of, cause number, and names of plaintiff and defendant. Arr. alph. by names of plaintiffs and defendants. May 1927-Dec. 1934, hdw.; 1935-, typed. 200 pp. 18 x 13½ x 2. Ct. rm., Allen Supr. Ct. 2.

228. CIVIL ACTIONS PENDING, 1927-. 1 f. d.

Record of actions and proceedings in civil causes, showing dates of filing, proceedings and sheriff's return, names of plaintiff, defendant and attorneys, nature and number of cause, amount of demand, and court orders. Arr. num. by cause numbers. For index, see entry 227. Hdw. 11 x 13½ x 27. Ct. rm., Allen Supr. Ct. 2.

229. DISPOSED OF CIVIL ACTIONS, 1927-. 3 f. d.

Record of actions and proceedings in civil causes, showing dates of filing, trial, sheriff's return and disposition, names of plaintiff, defendant and attorneys, nature and number of cause, amount of judgment, and orders of court. Arr. num. by cause nos. For index, see entry 227. Hdw. 11 x 13½ x 27. Ct. rm., Allen Supr. Ct. 2.

#### ORDERS

230. ORDER BOOK-CIVIL, 1927-. 16 vols. (1-16).

Transcripts of actions, proceedings and decrees in civil causes, showing dates of action, proceedings and decree, names of plaintiff, defendant, principals, attorneys and court, nature of action, cause number, proceedings of court, amounts of judgment, fees and costs, and disposition. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. Typed. 600 pp. 18 x 13 x 3. Clk. off.

## JUDGMENTS

231. JUDGMENT DOCKET [Allen Superior Court No. 2], 1927-  
5 vols. (1-5).

Record of judgments and decrees in civil and probate causes, showing dates of judgment and decree, names of plaintiff, defendant, attorneys and judgment debtor, cause number, and amounts of judgments, costs and fees. Arr. chron. by dates of judgments. Indexed alph. by names of plaintiffs; for separate index, see entry 170. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

## EXECUTIONS (see also entries 276-280)

232. EXECUTION DOCKET, 1927-. 2 vols. (1, 2).

Record of executions of writs for satisfaction of judgments, showing dates of writ, judgment and return, names of plaintiff, defendant, attorneys and person served, number and title of cause, amounts of judgment and costs, and sheriff's return. Arr. chron. by dates of executions. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

233. EXECUTIONS, SUPERIOR COURT NO. 2, 1927-. 6 f. b.  
(3173, 3583, 3629, 3913, 3858, 4031).

Original writs to attach or levy on property and orders of sale of property to satisfy judgments, showing dates of judgment, writ and order, amount of judgment, names of plaintiff and defendant, location and description of property, and sheriff's return. Also contains: [Sheriff's Certificate of Sale, Superior Court No. 2], 1931-, entry 234. Arr. chron. by dates of writs. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

234. [SHERIFF'S CERTIFICATES OF SALE, SUPERIOR COURT NO. 2], 1927-30 in Sheriff's Certificates of Sale [Circuit Court], entry 177; 1931- in Executions, Superior Court No. 2, entry 233.

Certificates issued to purchasers of property sold to satisfy judgments, showing dates of judgment, certificate and sale, names of plaintiff, defendant and purchaser, description of property, and amounts of judgment, interest, cost and sale.

## PROBATE CAUSES

(See also entries 154, 166, 167, 169, 192, 231, 268, 269)

## ENTRY OF CAUSES

235. ESTATE FEE BOOK [Estate Entry, Claim and Allowance Docket and Fee Book], 1914-. 30 vols. (14-28, 1-15).

Record of filing of actions and claims and assessment of

fees in estate causes, showing cause number, dates of decedent's death, appointment of administrator, inventory, sale bill and claims, names of estate, administrator or executor, sureties and claimant, amounts of estates, inventory, sale bill, administrator's or executor's bonds, and nature of claim. This is a combination of three records formerly kept separately: Estate Docket, entry 236; Docket of Claims Against Estates, entry 251; Estate Fee Book, entry 268. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 400 pp. 18 x 13 x 3. Clk. off.

236. ESTATE DOCKET, 1846-1913. 11 vols. 1914- in Estate Fee Book [Estate Entry, Claim and Allowance Docket and Fee Book], entry 235.

Record of filing of actions in estate causes, showing cause number, dates of filing, decedent's death and appointment of administrator, names of estate, administrator or executor, sureties and attorneys, and amounts of estate and administrator's bond. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### ORIGINAL DOCUMENTS

237. INDEX TO ESTATES, 1852-. 4 vols. (1-4).

General index to estate causes in [Court Documents], entry 154, showing cause number, names of decedent and administrator or executor, file box reference, and volume and page references to Administrators' Bonds, Oaths and Letters, entry 243; Executors' Bonds, Oaths and Letters, entry 244. Arr. alph. by names of decedents. Hdw. 300 pp. 18 x 13 x 2. Clk. off.

238. GENERAL INDEX TO GUARDIANSHIPS, 1851-. 2 vols. (1, 2).

General index to guardianship causes in [Court Documents], entry 154, showing cause number, names of ward and guardian, file box reference, and volume and page reference to Record of Applications, Bonds, Oaths and Letters of Guardianship, entry 245. Arr. alph. by names of wards. Hdw. 300 pp. 18 x 13 x 2. Clk. off.

#### WILLS

239. WILL RECORD, 1831-. 32 vols. (1-32).

Transcripts of wills and testaments filed for probate, showing dates of instrument and filing, names of testator and heirs, amounts of bequests, attest of witnesses, and certification of clerk. Arr. chron. by dates of filing. Indexed alph. by names of testators. 1831-1901, hdw.; 1902-, typed. 600 pp. 18 x 13 x 3. Clk. off.

## 240. WILLS, 1875-. 112 f. b.

Original wills filed for probate, showing dates of will and filing, names of testator, legatees and witnesses, description and amounts of bequests, terms and conditions of instrument, attest of witnesses, and certification of admission to probate. Arr. alph. by names of testators. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

## SURVIVING PARTNERSHIPS

241. SURVIVING PARTNERSHIPS, 1882-1906. 2 vols. (B, C).  
1907--in Order Book Civil, entry 165.

Minutes of court proceedings in settlement of partnerships dissolved by death of one partner, showing dates of filing and proceedings, names of deceased, surviving partners, sureties, appraisers and firm, nature and number of cause, appraisement of liabilities and assests of deceased, and date and amount of bond. Arr. chron. by dates of proceedings. Indexed alph. by names of firms. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

## 242. SURVIVING PARTNERSHIPS, 1882-. 3 f. b. (53, 2652, 2670).

Original papers of proceedings of partnerships dissolved by death of one partner, including petitions to close, inventories, and affidavits of partners and appraisers, showing dates of death, filing, proceeding and appointment of appraisers, names of principals, and nature and number of cause. Arr. chron. by dates of filing. For index, see entry 44. Hdw. and typed. 11 x 5 x 14. Clk. off.

## BONDS

243. ADMINISTRATORS' BONDS, OATHS AND LETTERS, 1845-.  
20 vols.

Record of letters of administration issued, bonds posted, and oaths administered to administrators, showing dates of decedent's death, issuance of letters, bond and oath, names of decedent, heirs, administrators and sureties, value of estate, amount and conditions of bond, and affidavits' financial status. Arr. chron. by dates of letters. Indexed alph. by names of administrators. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

244. EXECUTORS' BONDS, OATHS AND LETTERS, 1852-. 8 vols.  
(1-8).

Record of letters of appointment, bonds posted, and oaths administered for execution of wills, showing dates of decedent's death, letter, bond and oath, names of decedent, executor, heirs and sureties, amount and conditions of bond, value

of estate and sureties' affidavit of property owned. Arr. chron. by dates of letters. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

245. RECORD OF APPLICATIONS, BONDS, OATHS AND LETTERS OF GUARDIANSHIP, 1847-. 12 vols. (1-10, 1, 2).

Record of letters issued, bonds posted, and oaths administered for administration of guardianships, showing dates of letter, bond and oath, names of guardianship, guardian and sureties, amount and conditions of bond, and sureties' affidavit of property owned. Arr. chron. by dates of letters. Indexed alph. by names of guardianships. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

246. ADMINISTRATOR'S, EXECUTOR'S AND GUARDIAN'S BONDS, 1825-. 36 f. b. (numbering varies).

Original bonds posted by administrators, executors and guardians to administer estates and guardianships and execute wills, showing date, amount and condition of bond, names of estate, decedent, ward, administrator, executor, guardian and sureties, and oath of fidelity. Also contains: Bonds to Sell Real Estate, 1825-1914, 1922-, entry 247. Arr. chron. by dates of bonds. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

247. BONDS TO SELL REAL ESTATE, 1915-21. 1 f. b. (3223). 1825-1914, 1922- in Administrator's, Executor's and Guardian's Bonds, entry 246.

Record of bonds posted by administrators, executors, and guardians to sell real estate, showing dates of bond and filing, names of administrator, executor, guardian and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 44. Hdw. 11 x 5 x 14. Clk. off.

#### INVENTORIES

248. INVENTORY OF ESTATES, 1852-. 40 vols. (1-40).

Transcripts of administrators' and executors' inventories and appraisements of personal property in settlement of estates, showing names of decedents, appraisers, executor and administrator, itemized list and appraised value of property, and affidavits of appraisers and administrator. Also contains: Guardians Inventory, 1852-Sept. 13, 1883, entry 249. Arr. chron. by dates of inventories. Indexed alph. by names of decedents. 1852-1925, hdw.; 1926-, typed. 300 pp. 18 x 13 x 3. Clk. off.

249. GUARDIANS INVENTORY, Sept. 14, 1883-. 4 vols. (1-4). 1852-Sept. 13, 1883 in Inventory of Estates, entry 248.

Transcripts of guardians inventories and appraisements of real

and personal property in settlement of estates, showing date of inventory, names of guardian, ward and decedent, itemized list and appraised value of property, and affidavit of guardian. Arr. chron. by dates of inventories. Indexed alph. by names of wards. Hdw. 600 pp. 18 x 13 x 4. Clk. off.

#### SALE BILLS

250. SALE BILL RECORD, 1852-1930. 4 vols. (1-4).

Record of sales of personal property in probate causes, showing date of sale, names of estate, administrator, executor, sureties and purchaser, amounts of sale and receipt, cause number, acceptance of security for credit, and administrator's and executor's affidavit of sale. Arr. chron. by dates of sales. Indexed alph. by names of estates. Hdw. 250 pp. 16 x 12 x 2. Clk. off.

#### CLAIMS

251. DOCKET OF CLAIMS AGAINST ESTATES, 1853-1913. 36 vols. Title varies: 7 vols. 1853-79 Appearance Docket. 1914- in Estate Fee Book [Estate Entry, Claim and Allowance Docket and Fee Book], entry 235.

Record of claims filed against estates, showing cause number, names of estate and claimant, and amount and nature of claim. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 150 pp. 14 x 8 x 1. Clk. off.

252. CLAIMS PENDING, 1928-. 1 f. d.

Claims filed and pending in settlement of estates, showing date of filing, names of estate, claimants, executor or administrator and attorneys, cause and claim numbers, amount of claim, and proceedings of court. Arr. num. by claim nos. No index. Hdw. 11½ x 13½ x 27. Deputy clk. off., rm. 304.

253. CLAIMS CLOSED, 1927-. 2 f. d.

Claims filed and disposed of in settlement of estates, showing dates of filing and disposal, names of claimants, estate, executor or administrator and attorneys, cause and claim numbers, and amount of claim. Arr. num. by claim nos. No index. Hdw. 11½ x 13½ x 27. Deputy clk. off., rm. 304.

#### MINUTES

254. ESTATE INDEX, 1935-. 1 vol. 1927-34 in Old Estate and Guardianships [Index], entry 256.

Partial index to Estates Pending, entry 257, and Estates Closed, entry 258, showing cause number, name of estates, and whether cause is pending or closed. Arr. alph. by names of estates. Hdw. 250 pp. 12 x 12 x 2. Deputy clk. off., rm. 304.

255. GUARDIANS INDEX, 1935-. 1 vol. 1927-34 in Old Estates and Guardianships [Index], entry 256.

Partial index to Guardianships Pending, entry 260, and Guardianships Closed, entry 261, showing cause number, name of guardianship, and whether cause is pending or closed. Arr. alph. by names of guardianships. Hdw. 200 pp. 12 x 12 x 1½. Deputy clk. off., rm. 304.

256. OLD ESTATES AND GUARDIANSHIPS [Index], 1927-34. 1 vol. Partial index to Estates Pending, entry 257, Estates Closed, entry 258, Guardianships Pending, entry 260, and Guardianships Closed, entry 261, showing cause number, names of estate and guardianship, and whether cause is pending or closed. This is a combination of two records later kept separately: Estate Index, entry 254, and Guardians Index, entry 255. Arr. alph. by names of estates and guardianships. Hdw. 250 pp. 12 x 12 x 2½. Deputy clk. off., rm. 304.

257. ESTATES PENDING, 1927-. 1 f.d. 1856-1926 in Court Docket Probate, entry 259.

Record of actions and proceedings in estate causes, showing cause number, names of estate, administrator or executor, sureties and attorneys, date of administrator's appointment, amount of bond, and minutes of proceedings. Arr. num. by cause nos. For index, see entry 254. Hdw. 11 x 13 x 27. Deputy clk. off., rm. 304.

258. ESTATES CLOSED, 1927-. 3 f.d. 1856-1926 in Court Docket Probate, entry 259.

Record of actions and proceedings in estate causes, showing cause number, names of estate, administrator or executor, sureties and attorneys, date of administrator's appointment, amount of bond, and minutes of proceedings. Arr. num. by cause nos. For indexes, see entries 254 and 256. Hdw. 11 x 13 x 27. Deputy clk. off., rm. 304.

259. COURT DOCKET PROBATE, 1856-1926. 19 vols. (8 vols. not numbered, A, B, 14-22).

Record of actions and proceedings in estate causes, showing cause number, names of estate, administrator or executor, sureties and attorneys, date of administrator's appointment, amount of bond, and minutes of proceedings. This is a combination of two records later kept separately: Estates Pending, 1927-, entry 257; Estates Closed, 1927-, entry, 258. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 425 pp. 16 x 12 x 2. Clk. off.

260. GUARDIANSHIP PENDING, May 1927-. f. d. 1856-Apr. 1927 in Guardianship Docket, entry 262.

Docket sheets of actions and proceedings in guardianship causes

pending, showing dates of filing, guardian's letters, proceedings and orders of court, names of guardian, ward, sureties and attorneys, and amount of bond. Arr. num. by cause nos. For index, 1927-34, see entry 256; 1935-, see entry 255. Hdw. 11 x 13 x 27. Deputy clk. off., rm. 304.

261. GUARDIANSHIPS CLOSED, May 1927-. 1 f. d. 1856-Apr. 1927 in Guardianship Docket, entry 262.

Docket sheets of actions and proceedings in guardianship causes disposed of, showing dates of filing, proceedings, reports, guardian's letters and discharge, names of guardian, ward, sureties and attorneys, amount of bond, cause number, and disposition. Arr. num. by cause nos. For index, 1927-34, see entry 256; 1935-, entry 255. Hdw. 11 x 13 x 27. Deputy clk. off., rm. 304.

262. GUARDIANSHIPS DOCKET, 1856-Apr. 1927. 17 vols. (13 vols. not numbered, 8, 11, 12, 14).

Record of actions and proceedings in guardianship causes, showing dates of filing, guardian's letters and appointment, names of guardian, sureties, ward and attorneys, amount of bond, cause number, and disposition of cause. This is a combination of two records later kept separately: Guardianships Pending, May 1927-, entry 260; Guardianships Closed, May 1927-, entry 261. Arr. num. by cause nos. Indexed alph. by names of wards. Hdw. 500 pp. 13 x 10 x 3. Clk. off.

263. COURT DOCKET PROBATE [Common Pleas], 1853-73. 2 vols.

Record of actions and proceedings of estate causes in common pleas court, showing dates of letters, proceedings and reports, names of administrator, executor, sureties and estate, amount and conditions of bond, amount of inventory, and final report. Arr. chron. by dates of actions. Indexed alph. by names of estates. Hdw. 300 pp. 16 x 12 x 2. Clk. off.

264. GUARDIANS' DOCKET [Common Pleas], 1853-73. 1 vol.

Record of actions and proceedings in guardianship causes filed in common pleas court, showing dates of letters and reports, names of guardian, ward, attorney and sureties, amount of bond, and disposition. Arr. chron. by dates of actions. Indexed alph. by names of wards. 590 pp. 18 x 13 x 3. Clk. off.

#### ORDERS

265. PROBATE ORDER BOOK, 1825-. 111 vols. (A-Z, 1-85).

Record of orders and proceedings in litigation of estates, showing dates of filing and trial, names of deceased, administrator, executor and guardian, and number, nature, proceed-

ings and disposition of cause. Arr. chron. by dates of orders. Indexed alph. by names of deceased. 1825-Apr. 1927, hdw.; May 1927-, typed. 550 pp. 18 x 13 x 3. Clk. off.

#### COMPLETE TRANSCRIPTS

266. PROBATE FINAL RECORD, 1824-1919. 32 vols. (A-Z, 1-6).

Complete transcripts of actions and proceedings in probate causes involving transfer of real estate, showing dates of transcript, action and disposition, names of estate, heirs, administrator, executor and guardian, location and description of property, orders of court, and final disposition. Arr. chron. by dates of actions. Indexed alph. by names of estates or guardians. 1824-Jan. 9, 1901, hdw.; Jan. 10, 1901-19, typed. 700 pp. 18 x 13 x 4. Clk. off.

#### FEE AND CASH BOOKS

267. FEE BOOK CIVIL, 1927-. 7 vols. (1-7).

Record of fees and costs in civil causes, showing dates of filing and judgment, amounts of fees, costs and payments, and names of plaintiff, defendant, attorneys and judgment debtor. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

268. ESTATE FEE BOOK, 1853-1913. 17 vols. (1-3, 1-14).  
1914- in Estate Fee Book [Estate Entry, Claim and Allowance Docket and Fee Book], entry 235.

Record of fees assessed in estate causes, showing cause number, name of estate, nature and amount of fees, and receipt of satisfaction. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 236 pp. 16 x 12 x 2. Clk. off.

269. GUARDIANS FEE BOOK, 1853-. 16 vols. (1-14, 1, 2).  
Record of fees, costs, and payments in guardianship causes, showing dates of letters, inventory and settlement, names of guardian, ward and sureties, nature and amount of fee, and certification of county clerk. Arr. chron. by dates of payments. Indexed alph. by names of wards. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

270. MONTHLY JURY TIME BOOK ALLEN SUPERIOR COURT NO. 2. 1927-. 1 vol.

Record of time served and fees allowed for jury duty, showing dates of service and payment of fees, term of court, name and address of juror, number of miles travelled and days served, rate for service and mileage, total amount due juror, and receipt of payment. Arr. chron. by terms of court. No index. Hdw. 200 pp. 14 x 9 x 1. Ct. rm., Allen Supr. Ct. 2.

## VIII. SHERIFF

The sheriff is a constitutional officer elected for a two-year term, and he is not eligible to hold office more than four years in any six-year period. The office of sheriff in Allen County was established under the Constitution of 1851 and the Revised Statutes of 1852. He is commissioned by the governor and must post a bond of not less than \$5,000 nor more than \$15,000 as determined by the board of commissioners.<sup>1</sup> The salary of the sheriff as fixed by statute is \$4,800.<sup>2</sup>

The office of sheriff was originally established in Allen County in 1824, under the authority of the Constitution of 1816, and by an act of the same year, authorizing the governor to appoint the first sheriff in a new county, the county organization act, and the Revised Laws of 1824.<sup>3</sup> The sheriff's first duty after the formation of the county was to hold a special election for the other officers. Accordingly, the sheriff, following his appointment by the governor, called for an election in May 1824.<sup>4</sup> The sheriff's duties have not changed greatly since the organization of Allen County in 1824;<sup>5</sup> however, the sheriff no longer conducts the elections (with the exception of posting notices of elections)<sup>6</sup> or collects taxes.<sup>7</sup>

The sheriff is a conservator of the peace within the county. He is required to arrest without process all persons, who within his view commit any crime or misdemeanor, and detain them in custody during investigation of the cause of the arrest; suppress all breaches of the peace, with authority to call to his aid the power of the county; pursue and commit to jail all felons; maintain the jail and take care of the prisoners confined therein; execute all process, orders, and warrants directed to him by legal authority; and preserve and maintain order in all courts in the county, except those of justices

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<sup>1</sup> Const., art. 6, sec. 2. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

<sup>2</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>3</sup> Const. 1816, art. 4, sec. 25. Acts 1816-17, ch. 13, sec. 6. Rev. Laws 1824, ch. 18, sec. 2. Rev. Laws 1824, ch. 100, sec. 6.

<sup>4</sup> Commissioners' Record, A:1.

<sup>5</sup> Rev. Laws 1824, ch. 100, secs. 10, 14.

<sup>6</sup> Rev. Laws 1824, ch. 37, secs. 1, 2. 1 Rev. Stat. 1852, ch. 31, sec. 2. Acts 1883, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248.

<sup>7</sup> Rev. Laws 1824, ch. 23, secs. 4, 6. Acts 1840-41 (general), ch. 4, secs. 13-22.

of the peace.<sup>8</sup> It is his duty to make arrests on warrants issued on indictments and affidavits and commit the arrested persons to jail or hold them to bail as provided by law; to serve summonses in cases of misdemeanors,<sup>9</sup> and to protect persons from being lynched.<sup>10</sup> The sheriff calls the petit jury for criminal cases as prescribed by law or directed by the court.<sup>11</sup>

The sheriff sells property on execution and on mortgage foreclosure proceedings;<sup>12</sup> executes deeds to real property sold by him;<sup>13</sup> conveys persons committed to state charitable, correctional, and penal institutions;<sup>14</sup> and attends sessions and executes orders of the county council<sup>15</sup> and board of commissioners.<sup>16</sup> He is also a deputy of the sheriff of the supreme court of the state<sup>17</sup> and as such serves all process and orders of the supreme and appellate courts directed to him.<sup>18</sup>

The sheriff taxes and charges fees provided by law for the services that he performs.<sup>19</sup> He receives weekly reports from poultry dealers and makes any investigations that he considers necessary;<sup>20</sup> he grants licenses for the sale of firearms in forms prescribed by the superintendent of the state police.<sup>21</sup>

<sup>8</sup> Acts 1881 (Spec. Sess.); Burns 2-802, 3-522, 3-1910 to 3-1913, 3-2705; Baldwin 83, 791, 1026 to 1029, 1202. Acts 1871; Burns 4-1404, 4-1405; Baldwin 1597, 1598. Acts 1905; Burns 10-3707; Baldwin 2654. Acts 1903; Burns 35-411; Baldwin 8541. 2 Rev. Stat. 1852; Burns 49-2802, 49-2303; Baldwin 5494, 5495. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1919; Burns 64-1303; Baldwin 15707.

<sup>9</sup> Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

<sup>10</sup> Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531.

<sup>11</sup> Rev. Laws 1824, ch. 56, sec. 3. Acts 1905; Burns 9-1501; Baldwin 2246.

<sup>12</sup> 2 Rev. Stat. 1852, ch. 1, sec. 472. Acts 1881 (Spec. Sess.); Burns 2-3601, 3-1819; Baldwin 574, 1014.

<sup>13</sup> Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1931; Burns 3-1806; Baldwin 1008.

<sup>14</sup> Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264. Acts 1927; Burns 22-1213; Baldwin 4305.

<sup>15</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>16</sup> Rev. Stat. 1843, ch. 7, sec. 5. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>17</sup> 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

<sup>18</sup> Acts 1891; Burns 4-230; Baldwin 1378.

<sup>19</sup> Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1.

<sup>20</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

<sup>21</sup> Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Whenever the sheriff is unable to attend to his duties, the coroner performs them;<sup>22</sup> and if both the sheriff and coroner are unable to act, it is then the duty of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.<sup>23</sup> The sheriff appoints deputies and bailiffs. They are to assist him as he directs and he is responsible for their official acts.<sup>24</sup> Since Allen County has a population of more than 50,000, the sheriff may appoint a prison matron who takes care of all female prisoners and all children under 14 years of age.<sup>25</sup>

The chief records kept by the sheriff are a cashbook, a fee book,<sup>26</sup> a jail record,<sup>27</sup> and a poultry record.<sup>28</sup> He makes an annual record of executions and processes in his possession, the levies he has made, and the amount collected on each execution, which is to be entered on the order book of the court.<sup>29</sup>

#### SERVICE ON WRITS

##### 271. SHERIFF'S DOCKET, CIRCUIT COURT, 1871-85, 1890-. 49 vols.

Record of service on writs in circuit court actions, showing cause number, dates of writ, service and return, kind of writ, names of plaintiff, defendant and person processed, and amount of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 125 pp. 15 x 11 x 1½. 35 vols., 1871-73, 1875-85, 1890-1900, 1902, 1905, 1906, 1909-15, 1922, sher. off.; 7 vols., 1874, 1901, 1903, 1904, 1907, 1908, 1916-21, attic stor. rm.; 7 vols., 1923-, circ. ct. deputy clk. off.

272. SHERIFF'S DOCKET, SUPERIOR COURT, 1878-. 64 vols. Record of service on writs in superior court actions, showing cause number, dates of writ, service and return, kind of writ,

<sup>22</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

<sup>23</sup> 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

<sup>24</sup> Acts 1855, 1925; Burns 49-501; Baldwin 13108. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496.

<sup>25</sup> Acts 1901; Burns 13-1201, 13-1206; Baldwin 13780, 13785.

<sup>26</sup> Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>27</sup> Rev. Stat. 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

<sup>28</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

<sup>29</sup> Acts 1905; Burns 9-1034; Baldwin 2179. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

names of plaintiff, defendant and person processed, and amount of fees. Arr. num by cause nos. Indexed alph. by names of plaintiffs. Hdw. 225 pp. 17 x 12 x 2. 40 vols., 1878-1901, 1909-22, sher. off.; 4 vols., 1902-8, 1923-25, attic stor. rm.; 20 vols., 1926-, deputy clk. off., rm. 308.

273. SHERIFF'S DOCKET ALLEN SUPERIOR COURT No. 2 [Civil], 1927-. 7 vols. (1-7).

Record of service on writs in civil causes in superior court no. 2, showing dates of receipt and service, names of plaintiff and defendant, numbers of writ and cause, kind of writ and service, amount of fees, and return of satisfaction. Arr. chron. by dates of services. Indexed alph. by names of plaintiffs. Hdw. 225 pp. 17 x 12 x 2. Ct. rm., Allen Supr. Ct. No. 2.

274. SHERIFF'S DOCKET, ESTATES ALLEN SUPERIOR COURT No. 2, 1929-. 2 vols.

Record of service on writs in probate causes of superior court no. 2, showing dates of receipt and service, names of estate and person processed, numbers of cause and writ, type of service, total amount of fees, and return of satisfaction. Arr. chron. by dates of services. Indexed alph. by names of estates. Hdw. 225 pp. 15 x 11 x 1. Sher. off.

275. LEDGER [Sheriff's Criminal Docket], 1931-. 2 vols. Record of service on writs in criminal causes, showing date and kind of writ, nature of cause, names of defendant and attorneys, and amounts of bond and fees. Arr. chron. by dates of writs. Indexed alph. by names of defendants. Hdw. 265 pp. 14 x 9 x 1. Sher. off.

#### EXECUTIONS ON JUDGMENTS

(See also entries 173-183, 218-220, 232-234)

276. SHERIFF'S EXECUTION DOCKET CIRCUIT COURT, 1850-55, 1881-. 6 vols.

Record of execution of writs served for satisfaction of judgments, showing dates of writ and return, names of plaintiff and defendant, amounts of judgment and costs, and nature and number of writ. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 200 pp. 18 x 12 x 1. 3 vols., 1850-55, 1926-, sher. off.; 3 vols., 1881-1925, attic stor. rm.

277. SHERIFF'S EXECUTION DOCKET SUPERIOR COURT OF ALLEN COUNTY, 1877-. 10 vols. (1, 1, 2, and 7 vols. not numbered).

Record of executions for satisfaction of judgments, showing

dates of writ, service and sheriff's return, names of plaintiff and defendant, amounts of judgment and costs, nature and number of writ, and copy of sheriff's certificate of sale. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. and typed. 250 pp. 18 x 12 x 3. 1 vol., 1882-95, attic stor. rm.; 9 vols., 1877-81, 1896-, sher. off.

278. FOREIGN SALES AND EXECUTIONS, 1877-. 8 vols. Title varies: Foreign Writs, 1877-1922, 7 vols.

Record of service of foreign writs, showing dates of writ and return of satisfaction, names of plaintiff, defendant and county, nature and number of cause, amounts of judgment, fees and costs, and copy of certificate of sale. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 250 pp. 18 x 12 x 2½. 5 vols., 1877-91, 1914-, sher. off.; 3 vols., 1892-1913, attic stor. rm.

279. CERTIFICATES OF SALE, 1880-. 12 f. b.

Original certificates of sale for property purchased at sheriff's sales to satisfy judgments, showing dates of judgment, sale, notice, sale certificate and deed, names of property owner, plaintiff, defendant, purchaser and assignee, description of property, amounts of judgment, bid and sale price, and conditions of sale. Arr. chron. by dates of certificates. No index. Hdw. and typed. 11 x 5 x 14. Sher. off.

280. [SHERIFF'S SALE BOOK], 1877-1935. 18 vols.

Record of sheriff's sales ordered by court to satisfy judgments, showing dates of notice, sale and return, names of plaintiff and defendant, time and place of sale, description and location of property, amounts of judgment, costs and sale, and return of satisfaction. Arr. chron. by dates of notices. Indexed alph. by names of plaintiffs. Hdw. and typed. 300 pp. 12 x 9 x 2½. Sher. off.

#### JAIL RECORDS

281. JAIL REGISTER, 1878-85, 1889-. 15 vols.

Record of persons committed to county jail, showing dates of commitment and release, name, age, color, sex, birthplace and residence of prisoner, days imprisoned, nature of offense, and number and cost of meals served. Arr. chron. by dates of commitments. No index. Hdw. 200 pp. 15 x 12 x 2. 9 vols., 1878-85, 1889-98, 1918-23, C. C., sher. off.; 2 vols., 1899-1917, attic stor. rm.; 4 vols., 1924-, jail, sher. off.

282. CRIME RECORD, 1896-1915. 2 vols. Discontinued. Record of criminals brought to trial, showing dates of affi-

davit, arrest and hearing, name of court, name, nationality and personal description of defendant, nature of offense, and disposition. Arr. chron. by dates of arrests. Indexed alph. by names of defendants. Hdw. 200 pp. 14 x 12 x 1. 1 vol., 1896-1907, attic stor. rm.; 1 vol., 1908-15, sher. off.

#### REPORTS

283. [FIREARM SALES], 1935-. 1 f. b.

Reports by firearm dealers of sale of guns to individuals, showing dates of report and sale, names and addresses of dealer and purchaser, birthplace, color, age, and occupation of purchaser, and description of gun. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Sher. off.

For other firearm records, see entries 75-78.

284. AUTOMOBILE ACCIDENTS, 1935-. 5 f. b.

Sheriff's reports of automobile accidents in county, showing date and exact location of accident, nature of call, disposition of cars, names and addresses of persons involved and witnesses, arrests made, charges, amount of bond, names of court and officer making report, time call received, officers on call, time ambulance called, arrived and left, name of place where injured sent, condition of weather and highway, disposition of charges, and result of investigation. Arr. chron. by dates of accidents. No index. Hdw. and typed. 11 x 5 x 14. Sher. off.

285. REVOKED AUTOMOBILE LICENSES, 1937-. 1 f. b.

State bureau of motor vehicles' notices to sheriff of revocation or suspension of operators' and chauffeurs' licenses, showing name and address of driver, reason for revocation, term of suspension, and number and type of license. Arr. alph. by names of drivers. No index. Hdw. and typed. 11 x 5 x 14. Sher. off.

286. POULTRY DEALERS' RECORD AND REPORT TO SHERIFF, 1936-.  
1 f. b.

Original reports to sheriff from dealers of poultry purchased, showing dates of report and purchase, names and addresses of dealer and seller, breeding variety, number of fowls and weight of lot purchased, registered identification marks, whether purchased or produced by seller, automobile or truck license number, and dealer's affidavit of accuracy. Arr. chron. by dates of reports. No index. Hdw. and typed. 11 x 5 x 14. Sher. off.

## FEE AND CASH BOOKS

287. SHERIFF'S CASH BOOK, 1892-. 6 vols. (1-3, 1-3).  
Record of cash received and disbursed by sheriff, showing date, nature and amount of receipt or disbursement, cause number, names of payer and payee, and amount of payment to treasurer. Arr. chron. by dates of receipts or disbursements. No index. Hdw. 385 pp. 17 x 12 x 2. Sher. off.
288. REGISTER OF SHERIFF'S COSTS SUPERIOR COURT OF ALLEN COUNTY, 1877-. 37 vols. (1-37).  
Register of fees collected for service on writs in superior court causes, showing dates of service and return, names of plaintiff and defendant, kind of writ, and amount of fees. Arr. chron. by dates of services. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Sher. off.
289. REGISTER OF SHERIFF'S COSTS CIRCUIT COURT, 1880-.  
24 vols. (7 vols. not numbered, 2-18). Title varies:  
6 vols., 1880-92, Register of Fees.  
Register of fees collected for service on writs in civil causes, showing dates of service and return, names of plaintiff and defendant, nature and number of writ, and amount of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 12 x 3. 6 vols., 1880-92, sher. off.; 11 vols., 1895-1917, attic stor. rm.; 6 vols., 1893-94, 1918-, sher. off.
290. REGISTER OF SHERIFF'S COSTS, ALLEN SUPERIOR COURT NO. 2 [Civil], 1927-. 5 vols. (1-5).  
Register of fees collected for service on writs in civil actions of Allen Superior Court No. 2, showing dates of service and return, names of plaintiff and defendant, number and kind of writ, and amount of fees. Arr. chron. by dates of services. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 13 x 3. Sher. off.
291. REGISTER OF SHERIFF'S COSTS ESTATES ALLEN SUPERIOR COURT NO. 2, 1929-. 1 vol.  
Register of fees collected for service on writs in estate causes, showing dates of writ, service and return, names of estate, defendant and attorneys, and numbers of cause and writ. Arr. chron. by dates of services. Indexed alph. by names of estates. Hdw. 300 pp. 16 x 12 x 3. Sher. off.
292. [REGISTER OF FOREIGN FEES], 1929-. 3 vols.  
Record of fees assessed for service on writs from foreign counties, showing dates of receipt, writ, service and payment. names of plaintiff, defendant, person served and foreign court

and county, kind of writ, amounts of fees and payments, and sheriff's return. Arr. by names of foreign counties. No index. Hdw. 200 pp. 14 x 9 x 1. Sher. off.

293. REGISTER OF SHERIFF'S COSTS, CRIMINAL, 1928-30, 1934-.  
2 vols.

Register of fees collected for service on writs in criminal causes, showing dates of service and return, title and number of cause, kind of writ, and amount of fees. Arr. chron. by dates of services. No index. Hdw. 300 pp. 16 x 12 x 2. Sher. off.

294. [MILEAGE BOOK], 1935-. 1 vol.

Record of costs for transporting prisoners to and from penal and correctional institutions, showing date of trip, names of prisoner and institution, number of miles travelled, amount of cost per trip, and record of payments. Arr. chron. by dates of trips. No index. Hdw. 100 pp. 12 x 8 x 1/2. Sher. off.

295. RECEIPTS, 1935-. 1 f. b.

Receipts issued by clerk for money collected by sheriff on court orders, showing date, number, purpose and amount of receipt, and name of payee. Arr. chron. by dates of receipts. No index. Hdw. 11 x 5 x 14. Sher. off.

296. REGISTER OF SHERIFF'S COSTS ALLEN COUNTY COURT OF  
COMMON PLEAS, 1853-73. 4 vols. (3 vols. not num-  
bered, A).

Register of fees collected for service on writs in common pleas causes, showing dates of writ, service, return, payment and report to auditor, names of plaintiff, defendant and attorneys, nature and number of writ, and amount of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. Sher. off.

#### MISCELLANEOUS

297. BONDS [Replevin], 1907-. 2 f. b.

Bonds posted to indemnify defendants or persons from whose custody property was taken for damages, showing date, amount, term and conditions of bond, names of plaintiff, defendant and sureties, and description of property involved. Arr. chron. by dates of bonds. No index. Hdw. and typed. 11 x 5 x 14. Sher. off.

298. [PROOF OF PUBLICATION], 1917-. 8 vols. (0-5, and 2  
vols. not numbered).

Newspaper clippings establishing proofs of publication of sheriff's notices, showing dates of notice and publication,

names of publisher, plaintiff, defendant, court and notary, cause number, nature of notice, number of times published, and amount of cost. Arr. chron. by dates of notices. Indexed alph. by names of plaintiffs. Hdw. 640 pp. 15 x 10 x 3. Sher. off.

299. DEPUTY SHERIFF'S BONDS, 1935-. 1 f. b.

Bonds posted by appointed deputy sheriffs, showing dates of bond and acceptance, names of deputy and sureties, and term, conditions and amount of bond. Arr. chron. by dates of bonds. No index. Typed. 11 x 5 x 14. Sher. off.

300. SHERIFF'S REPORTS TO AUDITOR OF FEES COLLECTED, 1877-89. 1899-1913. 3 vols.

Record of reports to auditor of fees collected and paid to treasurer by sheriff, showing dates of report and quietus, itemized account of fees, total amount reported, sheriff's affidavit of accuracy, and auditor's quietus for receipt. Arr. chron. by dates of reports. No index. Hdw. 200 pp. 20 x 13 x 1½. 2 vols., 1877-89, sher. off.; 1 vol., 1899-1913, attic stor. rm.

## IX. CORONER

The coroner is a constitutional officer, elected for a two-year term without restriction on re-election. The office of coroner of Allen County is established under the Constitution of 1851.<sup>1</sup> He is commissioned by the governor under the Revised Statutes of 1852, and is required to post a bond of not less than \$1,000 nor more than \$5,000 as determined by the board of commissioners.<sup>2</sup> He receives an annual salary of \$3,000.<sup>3</sup>

The first coroner of Allen County was appointed and commissioned by the governor in 1824 when the county was organized. He was to serve until the next general election when his successor was elected. Thereafter the coroner was elected and commissioned for a two-year term or until his successor was chosen and qualified.<sup>4</sup> There has been no major change in

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<sup>1</sup> Const., art. 6, sec. 2.

<sup>2</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>3</sup> Acts 1895; Burns 49-2918; Baldwin 5455.

<sup>4</sup> Const. 1816, art. 4, sec. 25. Acts 1816-17, ch. 13, secs. 5, 6. Rev. Laws 1824, ch. 100, secs. 1-8. Executive Proceedings, 1823-36, p. 68.

the office of coroner other than the abolition of the coroner's jury<sup>5</sup> and the consequent transformation of the inquest from a court hearing in public to a formal nonjudicial inquiry.<sup>6</sup>

The coroner is required to investigate deaths by violence, accident, or other than natural causes; to inquire into the cause and manner of death;<sup>7</sup> and to order the arrest of any person whom he may charge with murder.<sup>8</sup> He holds inquests without a jury,<sup>9</sup> and may subpoena witnesses to attend and employ a physician to make a post-mortem examination;<sup>10</sup> he draws up his verdict,<sup>11</sup> and files it in the office of the clerk of the circuit court, together with a report giving a minute description of the deceased and valuables found with the body.<sup>12</sup> The coroner is a peace officer with the same powers as the sheriff,<sup>13</sup> and acts as sheriff in event of absence, a vacancy in the office, personal interest, or incapacity of that officer.<sup>14</sup> He arrests and commits the sheriff to jail, if necessary.<sup>15</sup>

301. CORONER'S INQUESTS, 1830-. 57 f. b. (31-77, 83, 2201, 2356, 2561, 2686, 2768, 3037, 3153, 3326, 3756).

Papers pertaining to coroner's inquests of violent or sudden deaths, showing dates of death and inquest, name of deceased, statements of witnesses, and coroner's verdict. Arr. chron. by dates of inquests. For index, see entry 44. 11 x 5 x 14. Clk. off.

302. RECORD OF CORONERS INQUESTS, 1884-. 8 vols. (1 vol. not numbered, 2-8).

Record of inquests of sudden or violent deaths, showing date, time, cause and place of death, names of decedent and witnesses, description of decedent, testimony of witnesses, recommendations of legal procedure, and coroner's verdict. Arr. chron. by dates of inquests. Indexed alph. by names of decedents. Hdw. 450 pp. 16 x 12 x 2. Clk. off.

<sup>5</sup> Acts 1879: Burns 49-2905; Baldwin 5444.

<sup>6</sup> Acts 1817-18 (general), ch. 20, secs. 1-9. Rev. Laws 1824, ch. 100, secs. 10-22. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935: Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439. See also *Stults v. Board of County Comrs.*, 168 Ind. 539, 81 N. E. 471.

<sup>7</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

<sup>8</sup> 2 Rev. Stat. 1852: Burns 49-2914; Baldwin 5448.

<sup>9</sup> Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

<sup>10</sup> 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

<sup>11</sup> 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

<sup>12</sup> 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2909; Baldwin 5443.

<sup>13</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>14</sup> 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>15</sup> 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

## X. PROSECUTING ATTORNEY

The prosecuting attorney is a constitutional officer, elected by the voters of each judicial circuit for a two-year term.<sup>1</sup> He is an officer of the circuit court and must reside within the bounds of the judicial circuit.<sup>2</sup> He must post bond in the amount of \$5,000, approved by the circuit judge, and filed with the clerk of the circuit court.<sup>3</sup> He officially represents the state and county, and prosecutes the pleas of the state in the Allen Circuit Court and the Allen Superior Courts.<sup>4</sup> The prosecutor of Allen County receives an annual statutory salary of \$5,800.<sup>5</sup> Vacancies in the office are filled by the governor.<sup>6</sup>

The office of prosecuting attorney was established by the territorial legislature and carried over into the early days of statehood. The prosecutor was appointed by the president judge and associate judges of the circuit court.<sup>7</sup> In 1824 a county attorney was appointed by the circuit court, and held office during good behavior; and a circuit attorney was appointed by the governor for the term of one year, and he received a salary of \$250 annually.<sup>8</sup> In 1826 the prosecutor was appointed by the governor, with the advice and consent of the senate, for a two-year term. His salary was set at \$200 annually.<sup>9</sup> The next year the general assembly changed the law, so that he was appointed by a joint ballot of the senate and house of representatives. The annual salary was made \$150.<sup>10</sup>

Under authority of an act of 1831, the judicial circuit had a prosecuting attorney who was chosen by a joint ballot of the senate and house of representatives for a two-year term. He took an oath of office administered by the president judge of the circuit, and executed a bond, to be approved by said

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<sup>1</sup> Const., art. 7, secs. 11, 12.

<sup>2</sup> 2 Rev. Stat. 1852; Burns 49-2501. State ex rel. Howard v. Johnson, 101 Ind. 223.

<sup>3</sup> 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

<sup>4</sup> 2 Rev. Stat. 1852; Burns 49-2501, 49-2502; Baldwin 5456, 5458.

<sup>5</sup> Acts 1933; Burns 49-2604; Baldwin 7549.

<sup>6</sup> 1 Rev. Stat. 1852; Burns 49-404; Baldwin 13103.

<sup>7</sup> Laws Ind. Terr. 1814, ch. 3, secs. 4, 5. Const. 1816, art. 12, sec. 4. Acts 1816-17, ch.

3, sec. 2.

<sup>8</sup> Rev. Laws 1824, ch. 24, secs. 9-13.

<sup>9</sup> Acts 1825-26, ch. 44, sec. 1.

<sup>10</sup> Acts 1826-27, ch. 17, secs. 1, 2.

judge, in penalty of \$5,000. His salary remained \$150 per year.<sup>11</sup> An act of 1843 provided that he be elected by the voters of the circuit for a two-year term and be commissioned by the governor. He was governed by his former statutory duties and was required to be a lawyer licensed to practice in the courts of Indiana.<sup>12</sup> The term of office was lengthened to three years in 1847, but in 1851 this law was repealed and the law of 1843 was revived.<sup>13</sup> The prosecuting attorney was made a constitutional officer by the Constitution of 1851.<sup>14</sup>

Whenever a prosecuting attorney fails to attend any court in his circuit, it is the duty of the judge to appoint some person to act in his place. The compensation for such deputy is deducted from the salary of the prosecutor.<sup>15</sup>

The prosecutor administers oaths,<sup>16</sup> and performs the duties of notaries public.<sup>17</sup> He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend.<sup>18</sup> He cannot represent applicants for liquor licenses.<sup>19</sup>

In counties with a population of more than 95,000, the prosecuting attorney may appoint one or more investigators, who shall work under his direction in investigating, collecting, and assembling such evidence as in the judgment of the prosecutor may be necessary for any criminal prosecution. Any investigators so appointed possess the same police powers as the sheriff and must give a \$5,000 bond.<sup>20</sup>

The prosecuting attorney in Allen County conducts all prosecutions for felonies or misdemeanors and all suits on forfeited recognizances; resists applications for changing names; protects the interests of all persons of unsound mind; and superintends on behalf of the county, all suits in which the county may be interested or involved.<sup>21</sup> He prosecutes

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<sup>11</sup> Rev. Laws 1831, ch. 10, secs. 1-5.

<sup>12</sup> Acts 1842-43 (general), ch. 15, secs. 1-5.

<sup>13</sup> Acts 1846-47 (general), ch. 13, secs. 1-8. Acts 1850-51 (general), ch. 132, secs. 1-3.

<sup>14</sup> Const., art. 7, secs. 11, 12.

<sup>15</sup> 2 Rev. Stat. 1852, Burns 49-2505; Baldwin 5461.

<sup>16</sup> Acts 1901; Burns 49-2506; Baldwin 5462.

<sup>17</sup> Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

<sup>18</sup> Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468.

<sup>19</sup> Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

<sup>20</sup> Acts 1935, 1937; Burns, 1939 suppl., 49-2514; Baldwin, 1939 suppl., 7548-1.

<sup>21</sup> Acts 1925, 1931, 1939; Burns, 1939 suppl., 15-1618; Baldwin, 1939 suppl., 3635-1. Acts 1939; Burns, 1939 suppl., 35-2310; Baldwin, 1939 suppl., 8503-10. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

bastardy suits;<sup>22</sup> resists undefended divorce suits;<sup>23</sup> recovers gaming losses for a dependent wife or children or both, or for the state;<sup>24</sup> prosecutes suits to enjoin violation of laws concerning horse racing;<sup>25</sup> prosecutes in city courts for criminal offenses under the state laws.<sup>26</sup> Whenever county officials fail to make the proper reports or payments to other county officials, the prosecutor moves against them.<sup>27</sup>

At sessions of the grand jury, he presents evidence and gives requested advice on law.<sup>28</sup> He prosecutes, before justices of the peace, cases of surety of the peace.<sup>29</sup> He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.<sup>30</sup>

The attorney general holds conferences of all prosecuting attorneys for the discussion of traffic problems.<sup>31</sup> The prosecutor acts for the attorney general in suits for the collection of liquor license funds,<sup>32</sup> and in prosecutions under the unemployment compensation law.<sup>33</sup>

The prosecuting attorney prosecutes all violations of any law, which is the duty of the labor commissioner to enforce, on request of the commissioner;<sup>34</sup> he prosecutes violators of safety and sanitary regulations concerning factories,<sup>35</sup> and all violations of the state food and drug law.<sup>36</sup> He prosecutes: Clerks of the circuit court for violation of the marriage license law;<sup>37</sup> officers failing to make records on payments

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<sup>22</sup> 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

<sup>23</sup> Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919.

<sup>24</sup> 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806.

<sup>25</sup> Acts 1895; Burns 10-2711; Baldwin 9273.

<sup>26</sup> Acts 1805; Burns 4-2409; Baldwin 11595.

<sup>27</sup> Acts 1895; Burns 49-1403; Baldwin 7583.

<sup>28</sup> Acts 1905; Burns 9-826; Baldwin 2122.

<sup>29</sup> Acts 1905; Burns 9-511; Baldwin 2059.

<sup>30</sup> Acts 1905; Burns 9-1045; Baldwin 2178.

<sup>31</sup> Acts 1931, 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

<sup>32</sup> Acts 1935, 1937; Burns, 1939 suppl., 12-912; Baldwin, 1937 suppl., 3764-41L.

<sup>33</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1517; Baldwin, 1937 suppl., 10168-68.

<sup>34</sup> Acts 1937; Burns, 1939 suppl., 40-2122; Baldwin, 1937 suppl., 10000-22.

<sup>35</sup> Acts 1899; Burns 40-1016; Baldwin 10081. Acts 1899; Burns 40-1019; Baldwin 10084.

<sup>36</sup> Acts 1939; Burns, 1939 suppl., 35-1235; Baldwin, 1939 suppl., 8433-8. Acts 1935; Burns, 1939 suppl., 64-416; Baldwin, 1935 suppl., 8487-9.

<sup>37</sup> 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635.

to the state;<sup>38</sup> hedge fence suits on relation of highway supervisor,<sup>39</sup> or on relation of township trustee;<sup>40</sup> railroads for not gravelling highway crossings,<sup>41</sup> and amusement operators for not obtaining a license.<sup>42</sup>

He represents the medical examination board in cases of appeal for a license;<sup>43</sup> and he appears for persons of alleged unsound mind.<sup>44</sup> He must be present at a hearing in any circuit, superior, criminal, probate or juvenile court for the commitment of a person to an Indiana University hospital.<sup>45</sup>

The prosecutor has many duties in aiding in the collection of taxes. He prosecutes false personal-property-tax lists;<sup>46</sup> prosecutes refusals to pay taxes;<sup>47</sup> and enforces penalties and forfeitures, not duties of the attorney general, in the law governing the state board of tax commissioners.<sup>48</sup> He brings suit to secure delinquent real-property taxes,<sup>49</sup> actions to enforce lien of State of Indiana on lands for sales for delinquent taxes,<sup>50</sup> and suit upon treasurer's bond when he refuses or neglects to make settlement with the auditor for the full amount of the tax duplicate.<sup>51</sup> He also sues the treasurer for failure to pay the revenues of his office to the auditor.<sup>52</sup> He prosecutes all violations and evasions of the gross-income-tax law.<sup>53</sup>

The prosecutor makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.<sup>54</sup> The state board of accounts prescribes that an appearance record

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<sup>38</sup> Acts 1883; Burns 49-142; Baldwin 13094.

<sup>39</sup> Acts 1891; Burns 30-303; Baldwin, 1935 suppl., 7648-1.

<sup>40</sup> Acts 1895; Burns 30-307; Baldwin 7649.

<sup>41</sup> Acts 1895; Burns 55-620; Baldwin 14119.

<sup>42</sup> Acts 1937; Burns, 1939 suppl., 20-1011; Baldwin, 1937 suppl., 4594-11.

<sup>43</sup> Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

<sup>44</sup> 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460.

<sup>45</sup> Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

<sup>46</sup> Acts 1919; Burns 64-608; Baldwin 15576.

<sup>47</sup> Acts 1919; Burns 64-719; Baldwin 15633.

<sup>48</sup> Acts 1919; Burns 64-1319; Baldwin 15723.

<sup>49</sup> Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

<sup>50</sup> Acts 1919; Burns 64-1518; Baldwin 15772.

<sup>51</sup> Acts 1919; Burns 64-2507; Baldwin 15856.

<sup>52</sup> Acts 1919; Burns 64-2508; Baldwin 15857.

<sup>53</sup> Acts 1933, 1937; Burns, 1939 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009.

<sup>54</sup> Acts 1933; Burns 49-2695; Baldwin 7550.

and fee book, a cashbook, and a monthly report be kept by the prosecutor.<sup>55</sup> The Allen County Prosecuting Attorney states that he keeps no records.

## XI. COUNTY ASSESSOR

The assessor of Allen County is a statutory officer, elected for a four-year term by the voters of the county. He receives a certificate of election from the clerk of the circuit court but is not commissioned by the governor. He holds office until his successor has been elected and qualified. He must be an elector of the county, and have been a continuous resident freeholder of the county for at least four years before the date of his election; and, while holding office of assessor, he must reside within the county and hold no other lucrative office. He must post bond in the amount of \$5,000, approved by and filed with the auditor,<sup>1</sup> and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>2</sup> The office of assessor was established in its present form by an act of 1919.<sup>3</sup>

The assessor receives a salary of \$2,880 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.<sup>4</sup> He is entitled to reimbursement for expenses when temporarily working in other counties pursuant to orders of the board of commissioners.<sup>5</sup> He is not permitted to retain, as compensation for himself, any fees collected by him.<sup>6</sup>

For incompetency, neglect of duty, or misconduct in office, the assessor may be removed by the state board of tax

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<sup>55</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview with E. P. Brennan, state examiner. May 18, 1939.

<sup>1</sup> Const., art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>2</sup> Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>3</sup> Acts 1919, 1921; Burns 64-1101 to 64-1103; Baldwin 15696, 15698, 15699.

<sup>4</sup> Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541.

<sup>5</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>6</sup> Acts 1933; Burns 49-1005; Baldwin 7535.

commissioners after a hearing before that board. After such removal the assessor may appeal to the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, and have a trial *de novo* on the charges on which he was removed.<sup>7</sup>

For sufficient legal grounds, the assessor may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or on an accusation verified by oath of any person; and such removal is subject to review by the supreme court.<sup>8</sup> If the assessor is convicted of a felony, the judgment of conviction must declare the office vacant.<sup>9</sup>

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>10</sup>

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. The deputies each receive \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.<sup>11</sup> With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding

<sup>7</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>8</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13165, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>9</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>10</sup> Rev. Stat. 1843, ch. 7, sec. 61. Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright*, 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>11</sup> 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

\$5 per day, pursuant to appropriation by the county council.<sup>12</sup>

From the time of the organization of the county in 1824<sup>13</sup> until 1841, assessors (often called listers) were appointed annually by the board of commissioners or board of justices, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).<sup>14</sup> Under an act of 1824 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.<sup>15</sup> An act of February 10, 1841 provided for the election of a county assessor in each county for a two-year term.<sup>16</sup> The office of county assessor was abolished in 1852, and the duties were transferred to township assessors elected for two-year terms.<sup>17</sup> From 1841 to 1872 real property was assessed by appraisers appointed by the board of commissioners from time to time as needed.<sup>18</sup> The county assessor (elected for a two-year term) replaced the appraiser in 1872;<sup>19</sup> but in 1875 the office was abolished, and the duties were transferred to township assessors elected for two-year terms.<sup>20</sup> An act of March 6, 1891 re-established the office of county assessor. Under this law, the assessor was elected for a four-year term, and was not eligible for re-election until four years after the expiration of the term for which he was elected. He was required to have been a resident freeholder and householder of the county not less than five years before the date of his election.<sup>21</sup> In 1933 the office of township assessor was abolished in all townships having a population not exceeding 5,000 (all townships except Adams, Washington, and Wayne), and the duties of the office were transferred to the township trustees.<sup>22</sup> Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

<sup>12</sup> Acts 1933; Burns 49-1011; Baldwin 7541.

<sup>13</sup> Rev. Laws 1824, ch. 18.

<sup>14</sup> Rev. Laws 1824, ch. 86, secs. 5-7. Commissioners' Record A:2, 30, 52, 58, 59, 76, 94, 96, 108, 148, 158, 192, 193, 217.

<sup>15</sup> Rev. Laws 1824, ch. 86, sec. 29.

<sup>16</sup> Acts 1840-41 (general), ch. 3, sec. 1.

<sup>17</sup> Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

<sup>18</sup> Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>19</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

<sup>20</sup> Acts 1875, ch. 97, secs. 2, 7, 9.

<sup>21</sup> Acts 1891, ch. 99, sec. 112.

<sup>22</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

The duties of the county assessor are: To examine tax duplicates and other records and papers in the offices of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess all omitted property of every kind, entering his valuation in a separate column on the township assessor's books; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;<sup>23</sup> and determine the value of intangibles for taxes.<sup>24</sup> Under appointments by Allen Superior Court No. 2, he serves as appraiser of estates in the administration of the inheritance-tax law.<sup>25</sup> He appraises school property in accordance with laws concerning transfer of pupils from one school to another.<sup>26</sup> He is ex officio a member and president of the county board of review.<sup>27</sup> His work is under the direction of the state board of tax commissioners.<sup>28</sup> Formerly the county assessor made out the assessment rolls (now made by the auditor),<sup>29</sup> took a census of deaf mutes in the county,<sup>30</sup> and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.<sup>31</sup>

Assessments by the county assessor under the property-tax laws are subject to review by the county board of review. Such assessments are also reviewable by the Allen Circuit Court, Superior Court of Allen County, and Allen Superior Court No. 2, on the question of the taxability of the property.<sup>32</sup>

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<sup>23</sup> Acts 1919; Burns 64-1102; Baldwin 15698. *McConnell v. Hampton*, 164 Ind. 547, 73 N. E. 1092.

<sup>24</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-905; Baldwin, 1935 suppl., 15903.

<sup>25</sup> Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1931, 1933; Burns 6-2408; Baldwin 15946.

<sup>26</sup> Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

<sup>27</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>28</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>29</sup> Rev. Laws 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1843, ch. 12, sec. 23. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

<sup>30</sup> Acts 1838-39 (general), ch. 41, sec. 1.

<sup>31</sup> Acts 1849-50 (general), ch. 17, secs. 2, 3.

<sup>32</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the limitation of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

The assessor must return to the auditor, on or before the first Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers that he has made thereto.<sup>33</sup> He is not required to keep any records permanently.<sup>34</sup>

303. DEPUTY ASSESSOR APPOINTMENTS, 1921-. 3 f. b.

Certificates of appointment of deputy assessors, showing dates of appointment, certificate and filing, and names of assessor and taxing unit. Arr. chron. by dates of certificates. No index. Hdw. 11 x 5 x 14. Aud. off.

304. [APPRAISERS' REPORTS], 1922-. 27 f. b.

Petitions to determine value of estates, orders determining value of estates and amount of tax, affidavits of executor or administrator and trustee or heirs, and appraisers' reports for determining amount of inheritance tax of estates, showing dates of petition, order, affidavit and report, names of estate, appraiser, executor, administrator and legatees, statement of assets and liabilities, value of real and personal property, itemized list of bequests, rate of taxation, total taxes due state, and certification of appraiser. Arr. alph. by names of estates. No index. Hdw. 11 x 5 x 14. Assr. off.

For other inheritance-tax records, see entries 166, 316, 317.

305. [OMITTED TAXABLE PROPERTY], 1927-. 12 vols.

Record of real and personal property omitted in assessment, showing names of property owner, assessor and taxing unit, and location, description and assessed valuation of property. Arr. alph. by names of property owners. No index. Hdw. 125 pp. 14 x 8 x 1½. Assr. off.

306. APPLICATIONS FOR DETERMINING VALUATION OF TAXABLE INTANGIBLES, 1933-. 4 f. d.

Applications for determining valuation of taxable intangibles, showing date of application, name and address of applicant, description and face value of intangibles, valuation placed by applicant, assessor and tax board, computation and tax, and affidavit of ownership. Also contains: Affidavits [Taxable Intangibles], 1935-, entry 307. Arr. chron. by dates of applications. No index. Hdw. 12 x 14 x 28. Assr. off.

For other intangible-tax records, see entries 144, 307, 318.

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<sup>33</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>34</sup> Interview with E. P. Brennan, state examiner, on May 18, 1939.

307. AFFIDAVITS [Taxable Intangibles], 1933-34. 11 vols. 1935- in Applications for Determining Taxable Intangibles, entry 306.

Affidavits of ownership of taxable intangibles, showing date of affidavit, name and address of owner, and description and valuation of intangibles. Arr. alph. by names of owners. No index. Hdw. 150 pp. 14 x 8 x 1½. Assr. off.

For other intangible-tax records, see entries 144, 306, 318.

## XII. COUNTY BOARD OF REVIEW

The board of review of Allen County, established under an act of 1891<sup>1</sup> and re-established in 1919, is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.<sup>2</sup> Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding the office.<sup>3</sup> Each member must take an oath that he will support state and federal constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.<sup>4</sup> The assessor and auditor are, respectively, the president and secretary of the county board of review.<sup>5</sup>

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as a member of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, beyond their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer

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<sup>1</sup> Acts 1891, ch. 99, sec. 114.

<sup>2</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

<sup>3</sup> Const., art. 6, secs. 4, 6.

<sup>4</sup> Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>5</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

received, in addition to their salaries, \$5 for each day actually served as members of the board.<sup>6</sup>

For sufficient legal grounds, any member of the county board of review may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.<sup>7</sup> If any member is convicted of a felony, the judgment of conviction must declare the office vacant.<sup>8</sup> The judge of the circuit court himself fills vacancies occurring among his appointees. Any vacancy among the ex officio members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, membership in the board of review being incidental to these offices.<sup>9</sup>

Before 1919, duties analogous to those of the present board of review were performed by the following officers and boards: From the time of organization of the county in 1824<sup>10</sup> to 1838, clerk of the circuit court and assessors or listers;<sup>11</sup> 1839, 1840, board of commissioners, clerk of the circuit court, and assessors or listers;<sup>12</sup> 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of board of commissioners, auditor, and appraiser (real estate only);<sup>13</sup> 1842 to 1852, board of equalization, consisting of board of commissioners, county assessor, and auditor;<sup>14</sup> 1853 to 1871, board of equalization,

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<sup>6</sup> Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934, 2313, 1936*, p. 130.

<sup>7</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>8</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>10</sup> Rev. Laws 1824, ch. 18.

<sup>11</sup> Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8.

<sup>12</sup> Acts 1838-39 (general), ch. 14, secs. 14, 15. The editor substituted "clerk of the circuit court" for "auditor", in view of the last sentence of sec. 5 of said act, there being no auditor in Allen County in 1839 or 1840.

<sup>13</sup> Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, sec. 13.

<sup>14</sup> Acts 1840-41 (general), ch. 1, sec. 18.

comprising the board of commissioners, auditor, and assessors (personal property only);<sup>15</sup> 1853 to 1871, board of equalization, constituted by the board of commissioners, county auditor, and appraiser or appraisers (real estate only);<sup>16</sup> 1872 to 1880, board of equalization, embracing the board of commissioners, county assessor, and auditor;<sup>17</sup> 1881 to 1890, board of equalization, including the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge;<sup>18</sup> 1891 to 1894, board of review, made up of the county assessor, auditor, and treasurer;<sup>19</sup> 1895 to 1918, board of review, formed by the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.<sup>20</sup>

The county board of review hears complaints of taxpayers concerning assessments (except those made by the state board of tax commissioners), reviews and corrects such assessments, equalizes property valuations, and makes assessments of omitted property. The tax list prepared by the assessors stands, except in the particulars where it is changed by the board. The board has power to set aside assessments for the whole county or a whole taxing unit therein and to order a new assessment by the assessors under instructions from the board.<sup>21</sup> The action of the board is subject to review by the state board of tax commissioners.<sup>22</sup> On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the Allen Circuit Court, the Superior Court of Allen County, or the Allen Superior Court No. 2; and appeal (on law and facts) involving taxability of property may be taken from the board of review to any of these courts.<sup>23</sup>

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<sup>15</sup> 1 Rev. Stat. 1852, ch. 6, sec. 91. The Revised Statutes of 1852 became effective on May 6, 1853. *Jones v. Cavins*, 4 Ind. 305.

<sup>16</sup> 1 Rev. Stat. 1852, ch. 35, sec. 2. *Jones v. Cavins*, 4 Ind. 305.

<sup>17</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

<sup>18</sup> Acts 1831 (Spec. Sess.), ch. 96, sec. 129.

<sup>19</sup> Acts 1891, ch. 99, sec. 114.

<sup>20</sup> Acts 1895, ch. 36, sec. 2.

<sup>21</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

<sup>22</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>23</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

The board of review holds an annual meeting on the first Monday of June,<sup>24</sup> and the session may last 45 days.<sup>25</sup> A majority of all the members of the board constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.<sup>26</sup> The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.<sup>27</sup>

308. RECORD [Board of Review], 1909-. 2 vols. (2, '3). Minutes of meetings of board of review, showing date of meeting, names of members and petitioners present, subjects discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by names of petitioners. Typed. 500 pp. 18 x 13 x 3. Aud. off.

### XIII. COUNTY BOARD OF TAX ADJUSTMENT

The board of tax adjustment of Allen County was established by an act of 1932<sup>1</sup> and re-established by acts of 1933<sup>2</sup> and 1937. It consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Fort Wayne or any public official of the city appointed by him; one member of the board of school trustees of the city of Fort Wayne, selected by that board; and four citizens and freeholders of the county selected before April 15 each year by a majority vote of the judges of Allen Circuit Court, Superior Court of Allen County, and Allen Superior Court No. 2, to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county, must have been an inhabitant thereof during one year next

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<sup>24</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>25</sup> Acts 1919; Burns 64-1205; Baldwin 15704.

<sup>26</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>27</sup> Acts 1919; Burns 64-1204; Baldwin 15703.

<sup>1</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

<sup>2</sup> Acts 1933, ch. 237, sec. 4.

preceding his appointment, and must reside within the county while holding the office. The members serve without compensation. Each member must take an oath that he will support state and federal constitutions and that he will faithfully discharge the duties of his office as member of the county board of tax adjustment. The board elects a chairman and a vice-chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The board may employ one of the examiners of the state board of accounts to assist in the duties of the board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.<sup>3</sup>

The board established under the act of 1932 was composed of: The auditor; three members of the county council, selected by the council; and three members annually appointed by the judge of the circuit court.<sup>4</sup> The board established under the act of 1933 was composed of seven members. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three freeholders of the county at large.<sup>5</sup>

For sufficient legal grounds, any member of the county board of tax adjustment may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.<sup>6</sup> If any member is convicted of a felony, the judgment of conviction must declare the office vacant.<sup>7</sup> A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.<sup>8</sup>

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<sup>3</sup> Const., art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>4</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

<sup>5</sup> Acts 1933, ch. 237, sec. 4.

<sup>6</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>7</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>8</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.<sup>9</sup> The action of the board of tax adjustment is subject to review by the state board of tax commissioners.<sup>10</sup>

Before 1932 no county officer or board performed duties similar or analogous to those of the county board of tax adjustment, except that in 1920 such tax levies were reviewable by the county council.<sup>11</sup> Since 1919, with the exception of the year 1920, such budgets, tax levies, and tax rates have been reviewable directly by the state board of tax commissioners.<sup>12</sup> Before 1919 a taxpayer's sole remedy for obtaining a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.<sup>13</sup>

The board of tax adjustment meets on the second Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.<sup>14</sup> The auditor, as clerk, keeps a complete record of all the proceedings of the board.<sup>15</sup>

309. MINUTES [Tax Adjustment Board], 1934-. 1 vol. Minutes of meetings of board of tax adjustment, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. Typed. 75 pp. 15 x 11 x 1. Aud. off.

#### XIV. BOARD OF FINANCE

The board of finance of Allen County, created by an act

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<sup>9</sup> Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns 1939, suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>10</sup> Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>11</sup> Interview with Philip Zoercher, chairman of state board of tax commissioners, May 22, 1939. Acts 1920 (Spec. Sess.); ch. 49, sec. 3.

<sup>12</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15793, 15794. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 61-1331; Baldwin, 1935 suppl., 15795.

<sup>13</sup> Toledo & W. R. Co. v. Lafayette, 22 Ind. 262; First Nat. Bank v. Greger, 157 Ind. 477. 62 N. E. 21. Interview with Philip Zoercher, chairman of the state board of tax commissioners, May 22, 1939.

<sup>14</sup> Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>15</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

of 1907<sup>1</sup> and re-created by a Despository Act of 1935<sup>2</sup> and the Depository Act of 1937, consists of the board of commissioners of Allen County. The county auditor is secretary.<sup>3</sup>

The county auditor and members of the board of commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance.<sup>4</sup> From 1907 to 1932 and in 1935 and 1936 the auditor received \$50 per year.<sup>5</sup>

Prior to 1907 no county officer or board performed duties similar or analogous to those of the board of finance.<sup>6</sup> The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>7</sup> It designates the banks and trust companies to serve as depositories for county funds,<sup>8</sup> and for all fees and funds received by the clerk of the circuit court by virtue of his office.<sup>9</sup> It may revoke the commission of any depository at any time.<sup>10</sup> In the name of "The Board of Finance of Allen County", the board may sue and be sued in any action in any court of competent jurisdiction.<sup>11</sup>

The board of finance holds an annual meeting on the third Monday in January, at which it elects its president;<sup>12</sup> and holds a biennial meeting on the third Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing two-year period.<sup>13</sup> The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it.

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<sup>1</sup> Acts 1907, ch. 222, sec. 6. This act was repealed by Acts 1935, ch. 70, sec. 42.

<sup>2</sup> Acts 1935, ch. 70, secs. 7, 43. This act was repealed by Acts 1937, ch. 3, sec. 42.

<sup>3</sup> Acts 1937; Burns, 1939 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84.

For laws concerning eligibility, oath, and removal of these officers, see the essays on auditor and board of commissioners.

<sup>4</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>5</sup> Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534.

*Opinions of the Attorney General of Indiana, 1934*, p. 313, *1936*, p. 130.

<sup>6</sup> Interview with E. P. Brennan, state examiner, on May 31, 1939.

<sup>7</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>8</sup> Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>9</sup> Acts 1937; Burns, 1939 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

<sup>10</sup> Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

<sup>11</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>12</sup> *Ibid.*

<sup>13</sup> Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.<sup>14</sup> The board keeps, as permanent records, the depositories' monthly statements of deposits.<sup>15</sup> The auditor, as secretary of the board of finance,<sup>16</sup> keeps a record of its proceedings. All records of the board are subject to public inspection.<sup>17</sup>

310. RECORD OF PROCEEDINGS [Board of Finance], 1907-.  
2 vols.

Minutes of meetings of board of finance, showing date of meeting, names of members present, nature of business discussed, and action taken. Also contains: Record of Public Depository Bonds, 1927-, entry 311. Arr. chron. by dates of meetings. No index. Hdw. 188 pp. 13 x 11 x 1½. Aud. off.

311. RECORD OF PUBLIC DEPOSITORY BONDS, 1907-26. 2 vols.  
1927- in Record of Proceedings [Board of Finance],  
entry 310.

Record of actions on proposals of depositories for deposits of county funds and bonds posted by depositories, showing dates of proposal, action and bond, name of depository, statement of financial condition of depository, and amount and conditions of bond. Arr. chron. by dates of actions. No index. Hdw. 400 pp. 16 x 12 x 2½. Aud. off.

## XV. COUNTY SCHOOL FUND BOARD

All loans from the common school fund and the Congressional township school fund shall be made by the school fund board of Allen County, as created by an act of 1935, and which consists of the auditor and the clerk of the circuit court as ex officio members and one member appointed by the judge of the circuit court for a two-year term. No more than two members of the board may be adherents of the same political party.<sup>1</sup>

Originally loans from the school funds of Allen County were made by the school commissioner, elected by the voters

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<sup>14</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>15</sup> Acts 1937; Burns, 1939 suppl., 61-628; Baldwin, 1937 suppl., 13841-59.

<sup>16</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>17</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>1</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

for a three-year term, in accordance with an act of 1829. The school commissioner was a financial agent of the county to manage the school funds and the lands belonging thereto.<sup>2</sup> This office was later abolished in Allen County and, under the Revised Statutes of 1852, the duties thereof were divided between the auditor,<sup>3</sup> or the clerk of the circuit court doing business as the auditor,<sup>4</sup> and the treasurer.<sup>5</sup> Upon approval of the township trustees, the auditor had authority to make loans until 1935.<sup>6</sup>

The common school fund, as established by the Constitution of 1851,<sup>7</sup> is kept by the auditor in pursuance of an act of 1865, in two separate accounts:<sup>8</sup> (1) The common school fund, consisting of moneys from the sale of escheated property, all lands granted to the state without a special object named in the grant, fines assessed by the courts, all money and lands formerly belonging to county seminaries, and all appropriations for schools, together with sundry minor funds. (2) The Congressional township school fund, consisting of moneys from the sale of Congressional township school lands.<sup>9</sup> Distribution of the common school fund is made biennially by the state to the counties on the basis of the average daily attendance of school children.<sup>10</sup> Both funds are under the control of the county and are loaned and managed by the county,<sup>11</sup> which is held liable for both principal and interest.<sup>12</sup>

Whenever more than \$5,000 in either fund remains unloaned in the county for six months, the county auditor must notify the auditor of state and the unloaned moneys may be transferred to another county.<sup>13</sup>

The school fund board makes all loans from these school funds to owners of real estate secured by mortgage. The board must satisfy itself, after approval of the title by the county

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<sup>2</sup> Acts 1828-29, ch. 84, secs. 8, 15.

<sup>3</sup> 1 Rev. Stat. 1852, ch. 98, sec. 137.

<sup>4</sup> 1 Rev. Stat. 1852, ch. 98, sec. 131.

<sup>5</sup> 1 Rev. Stat. 1852, ch. 98, sec. 133. Acts 1865, ch. 1, sec. 54.

<sup>6</sup> 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

<sup>7</sup> Const., art. 8, sec. 2.

<sup>8</sup> Acts 1865; Burns 28-105; Baldwin 6511.

<sup>9</sup> Acts 1865; Burns 28-101; Baldwin 6499.

<sup>10</sup> Acts 1865, 1895, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

<sup>11</sup> Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

<sup>12</sup> Acts 1865; Burns 28-104; Baldwin 6499-1.

<sup>13</sup> Acts 1901; Burns 28-206; Baldwin 6573.

attorney, as to the value of real estate offered in the mortgage, the validity of the title, and whether it is encumbered.<sup>14</sup> Loans may also be made to the county upon proper authorization by the county council, in certain cases, for a period not exceeding five years.<sup>15</sup>

312. LANDS FORFEITED-SCHOOL FUND MORTGAGES, 1843-. 6 f. b. Original mortgages executed to secure school-fund loans and applications to purchase property forfeited to state for non-payment of loans, showing dates of mortgage and application, names of mortgagor and applicant, amount of mortgage, location and description of property, appraised valuation, and publisher's affidavit of publication of notice of sale. Arr. chron. by dates of mortgages. No index. Hdw. 11 x 5 x 14. Aud. off.

For other school-fund records, see entries 115, 313, 398-400.

313. ABSTRACTS OF TITLES, 1879-. 14 f. b. Abstracts of titles to property mortgaged to secure school-fund loans, showing dates of abstract and all transfers, names of former and present owners, and location and description of property. Arr. chron. by dates of abstracts. No index. Hdw. 11 x 5 x 14. Aud. off.

For other school-fund records, see entries 115, 312, 398-400.

## XVI. TREASURER

The treasurer of Allen County is a constitutional officer, elected for a two-year term by the voters of the county.<sup>1</sup> He is commissioned by the governor,<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office of treasurer more than four years in any six-year period.<sup>4</sup> The treasurer must be an elector of the county, and must have been an inhabitant thereof during one year next pre-

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<sup>14</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>15</sup> Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

<sup>1</sup> Const., art. 6, sec. 2.

<sup>2</sup> *Ibid.*, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const., art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 6, sec. 2.

ceding his election or appointment;<sup>5</sup> and, while holding the office of treasurer, he must reside within the county, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post bond, covering his duties as county treasurer, in an amount (determined by the board of commissioners) not less than the amount of money which may come into his hands at any time during his term. Said bond is approved by the board of commissioners and filed with the clerk of the circuit court.<sup>8</sup> He must also post bond in such amount and with such securities as the common council of the city of Fort Wayne may determine and approve, covering his duties as ex officio treasurer of said city.<sup>9</sup> He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>10</sup>

The treasurer receives from the county a regular salary of \$4,400 per year. He receives from the city of Fort Wayne, for his services as ex officio city treasurer, a salary of \$3,600. In addition to his salaries aforesaid, he receives, as compensation for himself, six percent of all delinquent personal-property taxes collected by him (exclusive of taxes collected for the city of Fort Wayne), plus six percent of all delinquent taxes collected by him for the city of Fort Wayne, plus a "demand fee" of 50 cents on each collection resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as member of the board of review of Allen County.<sup>11</sup>

For sufficient legal grounds, the treasurer may be removed

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<sup>5</sup> *Ibid.*, sec. 4.

<sup>6</sup> *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

<sup>8</sup> Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 48-3101; Baldwin 5548.

<sup>9</sup> Acts 1905, 1909; Burns 48-6720; Baldwin 11524.

<sup>10</sup> Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>11</sup> Acts 1933; Burns 48-1224; Baldwin 11405. Acts 1905, 1909; Burns 48-6720; Baldwin 11524. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles* (1905), 164 Ind. 690, 74 N. E. 508. *Opinions of the Attorney General of Indiana, 1934*, p. 313, 1936, p. 130. Interview of August 1, 1939 with E. P. Brennan, state examiner.

by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>12</sup> If the treasurer is convicted of a felony, the judgment of conviction must declare his office vacant.<sup>13</sup> If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,<sup>14</sup> but such removal is subject to review by Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2.<sup>15</sup>

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a treasurer is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>16</sup>

The treasurer may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of such deputies and assistants, and such salaries must be not less than \$75 nor more than \$200 per month.<sup>17</sup> He may, at his own expense, employ other persons to collect delinquent personal-property taxes by personal demand.<sup>18</sup> The treasurer may require any deputy to

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<sup>12</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-820 to 49-834, 49-836; Baldwin 13153 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>15</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

<sup>16</sup> Const., art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>17</sup> Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>18</sup> Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

give bond.<sup>19</sup> The deputies must take the oath required of the treasurer, may perform all the official duties of the treasurer, and are subject to the same regulations and penalties.<sup>20</sup> The treasurer may remove such deputies and assistants at any time, and is responsible for their official acts.<sup>21</sup>

Beginning in 1824 the board doing county business, under statutory authority, annually appointed a county treasurer, who received and disbursed county funds.<sup>22</sup> Such disbursements were ordered paid by the board and attested by its clerk.<sup>23</sup> The treasurer did not collect taxes,<sup>24</sup> except the fees charged for tavern licenses<sup>25</sup> and for licenses for vending foreign merchandise.<sup>26</sup> The allowance to the county treasurer for his services was one and one-half percent of all moneys received by him and one and one-half percent of all moneys paid out by him for the county, except moneys arising from the sale of lots at county seats, in which case he received no more than two percent both for receiving and paying out.<sup>27</sup> By an act of 1841 the treasurer became an elective officer for a three-year term, and since then has had charge of collecting taxes.<sup>28</sup>

Before 1841 a tax collector, annually appointed by the board of commissioners, collected the taxes.<sup>29</sup> He delivered to the treasurer all funds collected by him, along with a list setting forth the amounts of moneys received by him in payment of taxes.<sup>30</sup> He made and delivered to the clerk of the circuit court an alphabetical list of all white males over 21 years of age<sup>31</sup> and filed with the clerk a report concerning the sale of lands for delinquent taxes.<sup>32</sup> The office of county

<sup>19</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>20</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>21</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> Acts 1816-17, ch. 17, secs. 1-3.

<sup>23</sup> *Ibid.*, sec. 3.

<sup>24</sup> *Ibid.*, sec. 10; ch. 19, secs. 9, 15, 16.

<sup>25</sup> *Ibid.*, ch. 17, sec. 7.

<sup>26</sup> *Ibid.*, sec. 4.

<sup>27</sup> Rev. Laws 1824, ch. 23, sec. 7.

<sup>28</sup> Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

<sup>29</sup> Acts 1817-18 (general), ch. 42, sec. 14. Rev. Laws 1824, ch. 86, sec. 18. Commissioners' Record, A:6.

<sup>30</sup> Acts 1825, ch. 9, sec. 1.

<sup>31</sup> Acts 1829-30, ch. 9, sec. 5.

<sup>32</sup> Rev. Laws 1824, ch. 86, sec. 36.

treasurer became a constitutional office when the Constitution of 1851 was adopted.<sup>33</sup>

The treasurer receives all moneys coming to the county and disburses the same on warrants issued by the auditor and countersigned by himself. He stamps on the warrant the name of the depository which is to pay it. He may pay the warrant out of funds in his office or require it to be presented to the depository for payment.<sup>34</sup> He collects taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor.<sup>35</sup> He sells real estate and personal property at public auction for delinquent taxes.<sup>36</sup> He also collects corporate taxes,<sup>37</sup> inheritance taxes,<sup>38</sup> and the excise tax on shares of stock and deposits of banks, trust companies,<sup>39</sup> and loan associations;<sup>40</sup> and sells intangible-tax stamps for the state board of tax commissioners.<sup>41</sup> As an ex officio treasurer of the city of Fort Wayne, he is custodian of the pension funds of the police<sup>42</sup> and fire departments,<sup>43</sup> and also acts as custodian of the receipts of the public utilities of the city.<sup>44</sup>

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds at the end of the previous month—consistent with the statements furnished to the board by the depository;<sup>45</sup>

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<sup>33</sup> Const., art. 6, sec. 2.

<sup>34</sup> Rev. Stat. 1843, ch. 7, sec. 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48.

<sup>35</sup> Acts 1897, ch. 54, sec. 1. Acts 1905; Burns' 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1910; Burns 64-1408; Baldwin 15745. Acts 1919; Burns 64-1502; Baldwin 15748.

<sup>36</sup> Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1918, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

<sup>37</sup> Acts 1919; Burns 64-1801; Baldwin 15783.

<sup>38</sup> Acts 1931; Burns 6-2413; Baldwin 15951.

<sup>39</sup> Acts 1933; Burns 64-804; Baldwin 15585.

<sup>40</sup> Acts 1933; Burns 64-827; Baldwin 15608.

<sup>41</sup> Acts 1933; Burns 64-927; Baldwin 15925.

<sup>42</sup> Acts 1895, ch. 20, sec. 16. Acts 1925; Burns 48-6401; Baldwin 11817.

<sup>43</sup> Acts 1905; Burns 48-6512; Baldwin 11834.

<sup>44</sup> Acts 1905; Burns 48-6702; Baldwin 11512.

<sup>45</sup> Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;<sup>46</sup> makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;<sup>47</sup> makes semi-annual settlements for taxes with the county auditor in May and November,<sup>48</sup> and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;<sup>49</sup> and also makes payments to the state treasurer at other times.<sup>50</sup> He makes quarterly reports to the auditor showing specifically the amount of fees collected;<sup>51</sup> and deposits quarterly with the auditor all redeemed warrants.<sup>52</sup>

The county treasurer is an ex officio member of the board of review, which meets annually for the purpose of reviewing property-tax valuations.<sup>53</sup>

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.<sup>54</sup> He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.<sup>55</sup> He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.<sup>56</sup>

Forms for the following books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; daily inventory of intan-

<sup>46</sup> Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

<sup>47</sup> Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>48</sup> Acts 1919; Burns 64-2501; Baldwin 15850.

<sup>49</sup> Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

<sup>50</sup> Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>51</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>52</sup> 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

<sup>53</sup> Acts 1891, ch. 99, sec. 114. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>54</sup> 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

<sup>55</sup> Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>56</sup> Acts 1841-42 (general), ch. 4, sec. 5. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

gible-tax stamps. This board has prescribed forms of blanks for treasurer's receipts, tax receipts, delinquent-tax receipts, bank and building and loan intangible-tax receipts, moratorium-tax receipts, and monthly reports to county auditor.<sup>57</sup>

The books and accounts of the treasurer are audited, from time to time without notice, by the state examiner.<sup>58</sup> Before 1909 the board of commissioners, at each regular session, audited the books of the treasurer.<sup>59</sup>

### TAX COLLECTIONS

#### PERSONAL AND REAL PROPERTY

314. TAX DUPLICATES, 1850—. 535 vols. (labelled by years). Record compiled annually by auditor of all taxes payable, showing duplicate number, names of taxpayer and taxing unit, location, description and assessed valuation of property, amounts assessed for real property, personal property and polls, deduction account mortgage and soldiers' exemptions, and date of payment. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. and typed. 200 pp. 20 x 22 x 2. 375 vols., 1850-1929, aud. off.; 160 vols., 1930—, treas. off.

315. PAID DUPLICATE TAX RECEIPTS, 1930—. 16 cartons, 64 f. d. Duplicate tax receipts, showing date of payment, names of taxing unit and taxpayer, duplicate number, amounts of valuation, assessment, exemptions, installment and personal and poll taxes collected, and volume and page reference to Tax Duplicates, entry 314. Arr. num. by duplicate nos. No index. Hdw. and typed. Cartons, 18 x 12 x 16; 4½ x 19 x 21. 16 cartons, 1930-36, treas. vt.; 64 f. d., 1937—, treas. off.

#### INHERITANCE TAX (see also entries 166, 304)

316. COURT ORDERS, INHERITANCE TAX, 1914—. 8 f. b. Orders determining valuation of estates and amount of inheritance tax, showing cause number, dates of decedent's death, appraisal of estate, order and filing of schedule, names of estate heirs, appraiser and executor or administrator, valuation of real and personal property, location and description of property.

<sup>57</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>58</sup> Acts 1909; Burns 60-211; Baldwin 13862.

<sup>59</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-630; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5535. Interview of May 18, 1939 with E. P. Brennan, state examiner.

amount of deduction for indebtedness, rate and amount of tax, and amount allowed appraiser. Arr. chron. by dates of orders. No index. Typed. 11 x 5 x 14. Treas. off.

317. INHERITANCE TAX RECEIPTS, 1914-. 7 vols.

Duplicate receipts issued for payment of inheritance taxes, showing dates of decedent's death, receipt and report, names of payer, estate and heirs, amounts of tax, interest and discount, and total amount paid. Arr. chron. by dates of receipts. No index. Hdw. 450 pp. 10 x 8 x 3. Treas. off.

INTANGIBLE TAX (see also entries 144, 306, 307)

318. RECORD OF RECEIPTS AND SALE OF INTANGIBLE TAX STAMPS, 1933-. 1 f. d.

Record of intangible-tax stamps received and sold by treasurer, showing date, amount and denomination of stamps received, sold and exchanged, total of monthly sale and consignment, and amount returned to tax commission at end of calendar year. Arr. chron. by dates stamps received. No index. Typed. 16 x 12 x 24. Treas. off.

PUBLIC IMPROVEMENTS (see also entries 31-38, 375-377)

319. DITCH TAX DUPLICATES, 1879-. 57 vols.

Record of assessments levied for construction and maintenance of ditches, showing duplicate number, dates of assessment and collection, names of property owner and ditch, location and description of property, number of acres benefited, and amounts of assessment, payment, delinquency and interest. Arr. by names of ditches, thereunder alph. by names of property owners. No index. Hdw. 200 pp. 17 x 15 x 1. Treas. off.

320. BONDED DITCH ASSESSMENTS, 1899-. 6 vols.

Record of assessments levied on bonded indebtedness for drainage projects, showing dates of payment and maturity, names of taxpayer, township and ditch, description of land, and amounts of assessment, valuation, installments, interest, penalties, delinquencies and payment. Arr. by names of ditches, thereunder alph. by names of taxpayers. No index. Hdw. 200 pp. 17 x 22 x 1½. Treas. off.

321. DITCH TAX RECEIPTS, 1933-. 6 f. d.

Duplicates of receipts issued for payment of ditch assessments, showing date, number and amount of receipt, names of ditch, payer and taxing unit, description of land, and volume and page reference to Ditch Tax Duplicates, entry 319. Arr. by taxing units, thereunder chron. by dates of receipts. No index. Hdw. 6 x 13 x 21. Treas. off.

322. GRAVEL ROAD DUPLICATE, 1893-1901, 1904-6. 9 vols. Record of assessments levied for construction and maintenance of gravel roads, showing dates of assessment and payment, names of road and property owner, location and description of road and land benefited, and amounts of assessment, penalties, interest and installments. Arr. by names of roads, thereunder by names of property owners. No index. Hdw. 80 pp. 17 x 4 x ½. Aud. off.

#### DELINQUENTS

323. INSOLVENT RECORD, 1871-81, 1906-. 8 vols. Title varies: Worthless Delinquent Tax List, 1871-81, 1 vol.

Record of delinquent and uncollectible taxes due to insolvency and non-residence, showing name of owner, valuation and description of property, duplicate number, reason for delinquency, and amounts of current and delinquent tax and penalty and interest. Arr. by names of twps., thereunder alph. by names of owners. Hdw. 500 pp. 20 x 15 x 2½. 1 vol., 1871-81, aud. off., 7 vols., 1906-, treas. off.

324. MORATORIUM TAX DUPLICATE, 1933-. 3 vols. (1-3).

Record of delinquent taxes on which payment has been deferred, showing date of moratorium, schedule of payments, tax duplicate number, names of taxpayer and taxing unit, location and description of property, and amount of delinquency. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 600 pp. 18 x 13½ x 2½. Treas. off.

325. DELINQUENT TAX BILLS, 1937-. 64 f.d.

Duplicates of receipts issued for payment of delinquent taxes, showing date of receipt, duplicate number, names of taxing unit and taxpayer, description and assessed valuation of property, and amount of payment. Arr. num. by duplicate nos. No index. Hdw. and typed. 13 x 6 x 21. Treas. off.

#### RECEIPTS AND DISBURSEMENTS

326. JOURNAL [Cash and Depository Record], 1913-21, 1935-. 14 vols. Title varies: Treasurers' Daily Balance of Cash, 1913-21, 5 vols.

Record of daily cash and depository balances, showing date of balance, amounts of receipts, disbursements, deposits and withdrawals, name of depository, amount of previous balance, and balance on hand and in depository at close of day. Arr. chron. by dates of balances. No index. Hdw. 300 pp. 16 x 13 x 2. 5 vols., 1913-21, attic stor. rm.; 9 vols., 1935-, treas. off.

327. FINANCIAL STATEMENT RECORD, 1900-1907, 1912-26. 5 vols. Title varies: Journal and Ledger, 1900-1907, 2 vols.; Record of monthly Balances, 1912-June 1925, 2 vols.

Record of monthly balances of all county revenue and miscellaneous funds, showing date of balance, name of fund, account number, and amounts of receipts, disbursements, deposits, withdrawals, and previous and current balance. Arr. chron. by dates of balances. No index. Hdw. 200 pp. 19 x 15 x 1½. Attic stor. rm.

328. [JOURNAL], 1899-. 39 vols. Title varies: Recapitulation of Receipts and Disbursements, 1899-1907, 6 vols.

Recapitulation of all receipts and disbursements, showing dates of receipts and disbursements, amounts of current county, township, city and town receipts and disbursements, amount of previous cash, checks drawn, deposits in bank, total receipts and disbursements, and cash on hand. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 19 x 15 x 2. 28 vols., 1899-1927, attic stor. rm.; 11 vols., 1928-, treas. off.

329. [CASH BOOK OF RECEIPTS AND DISBURSEMENTS], 1926-. 8 vols.

Record of receipts and disbursements of county funds, showing date, purpose and amount of receipt or disbursement, names of payee or payer and fund, and total balance in fund. This is a combination of two records formerly kept separately: Cash Book of Receipts Other Than Taxes, 1912-25, entry 330; Cash Book of Disbursements, 1911-25, entry 331. Arr. by names of funds, thereunder chron. by dates of receipts or disbursements. No index. Hdw. 450 pp. 20 x 14 x 3. Treas. off.

330. CASH BOOK OF RECEIPTS OTHER THAN TAXES, 1912-25. 6 vols. (1, 1-3, 3, 4). 1898-1906 in Cash Book, entry 332; 1926- in [Cash Book of Receipts and Disbursements], entry 329.

Record of receipts of money paid to treasurer, showing date, number and amount of receipt, and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 16 x 2. Attic stor. rm.

331. CASH BOOK OF DISBURSEMENTS, 1911-25. 8 vols. 1898-1906 in Cash Book, entry 332; 1926- in [Cash Book of Receipts and Disbursements], entry 329.

Record of disbursements of county funds, showing date, number and amount of disbursement, names of payee and fund, and total disbursements. Arr. chron. by dates of disburse-

ments. No index. Hdw. 400 pp. 18 x 13 x 3. Attic stor. rm.

332. CASH BOOK, 1898-1906. 3 vols.

Daily record of all receipts and disbursements, showing dates of receipt and disbursement, name of fund, amount of receipts applied to the various funds, and amount of disbursements from the various funds. This is a combination of two records later kept separately: Cash Book of Receipts Other Than Taxes, 1912-25, entry 330; Cash Book of Disbursements, 1911-25, entry 331. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 385 pp. 21 x 16 x 1. 1 vol., 1898-99, treas. off.; 2 vols., 1900-1906, attic stor. rm.

333. TOWNSHIP ROAD AND BOND REDEMPTION FUND, 1918-22.  
1 vol.

Record of redemption of bonds issued to finance construction and maintenance of highways, showing dates of issue and redemption, names of township and road, amounts of bond issue and payments, location and description of road, and amount of bonds outstanding. Arr. by twps., thereunder chron. by dates of redemption. No index. Hdw. 500 pp. 12 x 13 x 3. Attic stor. rm.

334. LEDGER [Road and Ditch Bonds], 1914-16. 1 vol.

Record of redemption of bonds issued to finance construction and maintenance of highways and ditches, showing amounts of bond issue and payments, names of road and ditch, location and description of property assessed, and amount of bonds outstanding. Arr. alph. by names of roads and ditches. No index. Hdw. 300 pp. 16 x 20 x 3. Attic stor. rm.

335. REDEEMED WARRANTS, 1900-. 49 f. b., 62 bdl.

Original warrants redeemed, showing dates of warrant and redemption, names of payee and depository, amount, purpose and number of warrant, and appropriation account charged. Arr. num. by serial nos. No index. Typed. F. b., 11 x 5 x 14, bdl., 4 x 8 x 6. 49 f. b., 1900-1922, aud. off.; 43 bdl., 1918-35, attic stor. rm.; 19 bdl., 1930-, treas. off.

336. REGISTER OF ORDERS REDEEMED, 1885-1907. 5 vols.

Register of orders issued by auditor and redeemed by treasurer, showing date, number, amount and purpose of order, and name of payee. Arr. num. by order nos. No index. Hdw. 163 pp. 22 x 17 x 2. 4 vols., 1885-May 1904, aud. off.; 1 vol., June 1904-7, attic stor. rm.

337. TREASURERS MISCELLANEOUS RECEIPTS, 1925-. 4 vols.

Carbon copies of receipts issued for county revenue other than taxes, showing date, number and amount of receipt, and names of payer and account credited. Arr. num. by receipt nos. No index. Typed. 1000 pp. 18 x 12 x 8. Treas. off.

## 338. APPLICATION TO PAY, 1926-. 7 f. b.

Orders of auditor to treasurer to receive payment of miscellaneous county revenues, showing dates of issue and presentation, names of applicant and payee, number of application, and amount of payment. Arr. num. by application nos. No index. Typed. 11 x 5 x 14. Treas. off.

## 339. BANK DEPOSIT SLIPS, 1930-. 2 cartons.

Duplicate statements of deposits of county funds made by treasurer, showing date of deposit, names of bank and treasurer, and total amount of deposit. Arr. chron. by dates of deposits. No index. Hdw. 12 x 18 x 20. Treas. off.

## MISCELLANEOUS

340. SIGNATURE CARDS [Public Welfare Constituents], 1936-.  
2 f. d.

Original signatures of recipients of old-age and dependent-children assistance to verify questionable indorsements, showing name and signature of principal, application code serial number of award. Arr. num. by serial nos. No index. Hdw. 4½ x 7 x 14. Treas. off.

## XVII. AUDITOR

The auditor of Allen County is a constitutional officer, elected for a four-year term by the voters of the county.<sup>1</sup> He is commissioned by the governor,<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office of auditor more than eight years in any twelve-year period.<sup>4</sup> The auditor must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;<sup>5</sup> and, while holding the office of auditor, he must reside within the county, must not hold any other lucrative office, and must not practice law.<sup>6</sup>

<sup>1</sup> Const., art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415.

<sup>2</sup> Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const., art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Griebel v. State ex rel. Niezer (1887), 111 Ind. 369, 12 N. E. 700.

<sup>4</sup> Const., art. 6, sec. 2.

<sup>5</sup> *Ibid.*, sec. 4. State ex rel. Jeffries v. Kilroy (1882), 86 Ind. 118.

<sup>6</sup> Const., art. 2, sec. 9; art. 6, sec. 6. Acts 1905; Burns 10-3102; Baldwin 2636. State v. Allen (1863), 21 Ind. 516; Wells v. State ex rel. Peden (1911), 175 Ind. 380, 94 N. E. 321.

He must post bond in the amount of \$10,000—approved by the board of commissioners and filed with the clerk of the circuit court—<sup>7</sup> and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The auditor receives a regular salary of \$5,200 per year.<sup>9</sup> In addition to his regular salary, he receives \$500 per year for services rendered for the city of Fort Wayne; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Allen County; and from 1919 until 1933, he also received \$5 per day for each day actually served as member of the board of review of Allen County.<sup>10</sup> He is not entitled to retain, as compensation for himself, any fees collected by him.<sup>11</sup>

For sufficient legal grounds, the auditor may be removed by the Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.<sup>12</sup> If the auditor is convicted of a felony, the judgment of conviction must declare the office vacant.<sup>13</sup>

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an auditor is

<sup>7</sup> Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

<sup>8</sup> Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>10</sup> Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1909, ch. 112, sec. 1. Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1224, 49-1001, 49-1004; Baldwin 11405, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15709, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313, *1936*, p. 130. Board of County Comrs. v. Johnson (1891), 127 Ind. 238, 26 N. E. 821; Tucker v. State ex rel. Board of County Comrs. (1904), 163 Ind. 403, 71 N. E. 140.

<sup>11</sup> Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State ex rel. Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

<sup>12</sup> Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1877; Burns 4-510; Baldwin 1450-10. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>14</sup>

The auditor may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries and other compensation of such deputies and assistants, and the salaries must be not less than \$75 nor more than \$200 per month.<sup>15</sup> The auditor may require any deputy to give bond.<sup>16</sup> The deputies must take the oath required of the auditor, may perform all the official duties of the auditor, and are subject to the same regulations and penalties.<sup>17</sup> The auditor may remove such deputies and assistants at any time, and is responsible for their official acts.<sup>18</sup>

The office of auditor was created in Allen County by an act of 1841 and became constitutional office when the Constitution of 1851 was adopted. Under the act of 1841 the auditor was elected by the voters of the county for a five-year term.<sup>19</sup>

Ever since the creation of Allen County in 1824,<sup>20</sup> there has been a clerk of the circuit court in the county.<sup>21</sup> Most of the early duties of the auditor were transferred to him from the clerk,<sup>22</sup> and included the clerk's previous duties as clerk of the board of commissioners,<sup>23</sup> as member of the boards performing duties like those of the present county

<sup>14</sup> Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright*, 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>15</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>17</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>19</sup> Const., art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. *Jones v. Cavins*, 4 Ind. 305.

<sup>20</sup> Rev. Laws 1824, ch. 18.

<sup>21</sup> Const. 1816, art. 11, sec. 10. Const., art. 6, sec. 2.

<sup>22</sup> *Jones v. Cavins*, 4 Ind. 305.

<sup>23</sup> Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

board of review,<sup>24</sup> duties concerning taxation, finance, and county business,<sup>25</sup> duties concerning the empanelling of petit jurors and grand jurors,<sup>26</sup> and duties concerning elections.<sup>27</sup>

From the time of the creation of the county in 1824<sup>28</sup> until 1852, there was a county agent in Allen County who performed various duties concerning county business, as required by the board of commissioners or board of justices, including the collection of donations for the county, purchase of land, equipment, and supplies, the sale of county property and collection of the purchase price thereof, and the making of contracts for public improvements. Originally he was appointed for an indefinite term by the board of commissioners or board of justices. From 1843 until 1852 he was appointed for a three-year term by the board of commissioners. In 1852 his office was abolished and his duties were transferred to the auditor.<sup>29</sup> The purchasing agent of Allen County, whose office was created by an act of 1921, now performs some duties similar to those of said county agent.<sup>30</sup>

The auditor is the financial agent of the county; and the routine administration of county affairs centers in his office, through which all financial transactions are conducted.

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by

<sup>24</sup> Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

<sup>25</sup> Acts 1811, ch. 37, sec. 3. Acts 1813, ch. 8, sec. 6. Acts 1813-14, ch. 32, sec. 2. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

<sup>26</sup> Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

<sup>27</sup> Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

<sup>28</sup> Rev. Laws 1824, ch. 18.

<sup>29</sup> Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 2, 4, 6, 8, 9. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52 (special and local), ch. 2. Commissioners' Record A:1, 5, 7, 16, 17, 19, 30, 32, 33, 43, 55, 64, 77, 80, 83, 167, 169, 176, 188, 193, 194.

<sup>30</sup> Acts 1921; Burns 26-1601; Baldwin 5206.

him to the board of commissioners.<sup>31</sup> A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.<sup>32</sup> He publishes all such claims and allowances thereon and also all allowances against the county made by courts.<sup>33</sup> On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.<sup>34</sup>

The treasurer disburses money from the county treasury on warrants (formerly called orders) drawn by the auditor. The warrants are accompanied by a carbon copy except as to funds of the state and townships. If funds are available to pay a warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable.<sup>35</sup> If no funds are available to pay the warrant, the treasurer indorses thereon the date of the presentment and the words "not paid for want of funds;" and the warrant draws interest until the treasurer or auditor publishes a call for redemption.<sup>36</sup> The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.<sup>37</sup> The treasurer quarterly deposits all redeemed warrants with the auditor, for permanent filing, and takes his receipt therefor.<sup>38</sup>

When the auditor draws a warrant, he charges it against

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<sup>31</sup> Acts 1879 (Spec. Sess.); Burns 26-805.

<sup>32</sup> Acts 1899; Burns 26-538; Baldwin 5403.

<sup>33</sup> Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk* (1905), 165 Ind. 121, 74 N. E. 892.

<sup>34</sup> 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divelbiss* (1874), 46 Ind. 301; *Shirk v. Moore* (1884), 96 Ind. 199; *Strebin v. Lavengood* (1904), 163 Ind. 478, 71 N. E. 494; *Smith v. Gustin* (1907), 169 Ind. 42, 81 N. E. 722.

<sup>35</sup> 1 Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>36</sup> Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

<sup>37</sup> Rev. Stat. 1843, ch. 7, sec. 77. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

<sup>38</sup> Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.<sup>39</sup> The number, date, amount, name of payee, and purpose of the warrant are entered in a book.<sup>40</sup> The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>41</sup> Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>42</sup> The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.<sup>43</sup>

On claims allowed by courts for cost of administration of justice,<sup>44</sup> and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.<sup>45</sup> But a warrant may be issued to pay a judgment, or for management of the school fund, or insanity inquests, or salaries or other liabilities for specific amounts fixed by law, without there being a claim therefor allowed as aforesaid.<sup>46</sup> A warrant not called for within five years after the allowance of the claim on which it was drawn may be cancelled by the board of commissioners, if not called for after publication of notice.<sup>47</sup>

The auditor is ex officio clerk of the board of com-

<sup>39</sup> Acts 1899; Burns 26-544; Baldwin 5409.

<sup>40</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>41</sup> Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>42</sup> Acts 1909; Burns 60-215; Baldwin 13866.

<sup>43</sup> Gill v. State ex rel. Board of County Comrs. (1880), 72 Ind. 266.

<sup>44</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1805; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

<sup>45</sup> Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

<sup>46</sup> Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Blue v. State ex rel. Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>47</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

missioners,<sup>48</sup> the county council,<sup>49</sup> and the county board of tax adjustment,<sup>50</sup> and is ex officio secretary of the board of finance.<sup>51</sup> He is also a member and secretary of the county board of review,<sup>52</sup> and a member of the county school fund board.<sup>53</sup> From 1841 to 1890 he was a member of the boards performing duties like those of the present county board of review.<sup>54</sup> Formerly the auditor was a member of the election board under the local-option liquor laws,<sup>55</sup> and was clerk of the old-age pension board.<sup>56</sup> Before 1841 the clerk of the circuit court acted as clerk of the board of commissioners and board of justices<sup>57</sup> and was a member of the boards performing duties like those of the present county board of review.<sup>58</sup>

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote, the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.<sup>59</sup>

<sup>48</sup> Acts 1840-41 (general), ch. 2, secs. 3, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 40-3094; Baldwin 5226, 5238, 5418.

<sup>49</sup> Acts 1899; Burns 26-509; Baldwin 5373.

<sup>50</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>51</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>52</sup> Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15760.

<sup>53</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>54</sup> Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1877, ch. 89, sec. 1. Acts 1831 (Spec. Sess.), ch. 96, sec. 129.

<sup>55</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. Kunkle v. Coleman, 174 Ind. 315 (1910), 92 N. E. 61.

<sup>56</sup> Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>57</sup> Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6.

<sup>58</sup> Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

<sup>59</sup> Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton (1884), 99 Ind. 300; State ex rel. Laughlin v. Porter (1888), 113 Ind. 79, 14 N. E. 883; State ex rel. Williams v. Edwards (1888), 114 Ind. 581, 16 N. E. 627; State ex rel. Drummond v. Dillon (1899), 125 Ind. 65, 25 N. E. 136; State ex rel. Morris v. McFarland (1898), 149 Ind. 266, 49 N. E. 5.

Formerly the auditor, recorder, and clerk of the circuit court had charge of the county library, and constituted a board of trustees for that purpose. The board was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated for the library, and make loans of the surplus library fund, and was required to make an annual report to the board of commissioners.<sup>60</sup> Several years ago the library was discontinued.

If on account of death, sickness, or other casualty the judge of Allen Circuit Court, Superior Court of Allen County, or Allen Superior Court No. 2 fails for three consecutive days to attend court during term time, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>61</sup>

The auditor was authorized to fill vacancies in the former office of real estate appraiser.<sup>62</sup>

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examine the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.<sup>63</sup> The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.<sup>64</sup>

Under former laws the auditor delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board;<sup>65</sup> he prepared blank forms of poll books and election returns, and delivered

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<sup>60</sup> Const. 1816, art. 9, sec. 5. Acts 1816-17, ch. 28; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503; Baldwin 10321. Acts 1861; Burns 41-507; Baldwin 10321 note. Traylor v. Dykins (1883), 91 Ind. 229.

<sup>61</sup> Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>62</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>63</sup> Acts 1875; Burns 26-201; Baldwin 5032.

<sup>64</sup> Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

<sup>65</sup> Acts 1816-17, ch. 9, sec. 22. Rev. Laws 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

them to the inspectors of the election precincts;<sup>66</sup> after registration was required, he delivered the election supplies to the registration inspector of each precinct;<sup>67</sup> he kept the completed registration books and forms in his office, open to public inspection;<sup>68</sup> and he filed in his office petitions for elections under the local-option liquor laws.<sup>69</sup>

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices and constables) as required by the board, are filed with the auditor.<sup>70</sup> When a bond is required of such officers, it also is filed with the auditor.<sup>71</sup> The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.<sup>72</sup> The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.<sup>73</sup> The official bonds of all township trustees are approved by the auditor.<sup>74</sup>

The oath of the circuit judge as to his report of examination of the office of clerk of the circuit court is administered by the auditor.<sup>75</sup> The auditor and his deputies are authorized to administer all oaths necessary in the performance of their duties.<sup>76</sup>

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.<sup>77</sup>

Once every six years the township trustees and their assistants enumerate all white male inhabitants of the state

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<sup>66</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>67</sup> Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>68</sup> Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>69</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

<sup>70</sup> Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

<sup>71</sup> Rev. Stat. 1843, ch. 4, secs. 88, 89.

<sup>72</sup> Acts 1851-52; Burns 49-123; Baldwin 13093.

<sup>73</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>74</sup> Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061.

Copeland v. State ex rel. Davis (1890), 126 Ind. 51, 25 N. E. 866.

<sup>75</sup> 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

<sup>76</sup> 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

<sup>77</sup> Rev. Stat. 1843, ch. 10, sec. 4.

over 21 years old.<sup>78</sup> Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.<sup>79</sup> The trustees' returns are filed in the office of the auditor.<sup>80</sup> The auditor examines the returns and, by orders recorded in a separate book, corrects any errors, mistakes, or omissions discovered. For this purpose, he may subpoena and question witnesses.<sup>81</sup> The auditor then certifies the corrected enumerations to the auditor of state.<sup>82</sup> In the same manner, and at the same time, there is an enumeration of all colored male inhabitants of the state over 21 years old. Separate lists are made. One list is designated "white male inhabitants" and the other is designated "colored male inhabitants."<sup>83</sup>

In townships having a population not exceeding 5,000 (all townships except Adams, Washington, and Wayne), the office of the township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee when performing the duties prescribed by statutes for township assessors.<sup>84</sup>

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and returns the list to the auditor, who reports it to the state department of public welfare.<sup>85</sup>

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, or who died or were disabled in active service, and deliver the lists to the auditor.<sup>86</sup>

<sup>78</sup> Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

<sup>79</sup> Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

<sup>80</sup> Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

<sup>81</sup> Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

<sup>82</sup> Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

<sup>83</sup> Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

<sup>84</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

<sup>85</sup> Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575. The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

<sup>86</sup> Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

Formerly township trustees made enumerations of children between the ages of five and 21 years and delivered such enumerations to the auditor, who delivered them to the state superintendent of public instruction.<sup>87</sup>

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.<sup>88</sup>

Formerly, as clerk of the old-age pension board, the auditor issued certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.<sup>89</sup>

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.<sup>90</sup>

Scalps of woodchucks, heads of owls, hawks, and crows, and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.<sup>91</sup>

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for one month, subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.<sup>92</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.<sup>93</sup> The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years, and the auditor enters such

<sup>87</sup> Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

<sup>88</sup> Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1939 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

<sup>89</sup> Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>90</sup> Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

<sup>91</sup> Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

<sup>92</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

<sup>93</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

lists on the order book of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the treasurer.<sup>94</sup>

The auditor furnishes all parties with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.<sup>95</sup>

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.<sup>96</sup>

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds are kept on file in the auditor's office, open to public inspection.<sup>97</sup> If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.<sup>98</sup> Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the board of commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.<sup>99</sup>

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county;<sup>100</sup> and the auditor may compromise the suits brought by him and receive the money agreed to be paid.<sup>101</sup>

<sup>94</sup> Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>95</sup> Acts 1879 (Spec. Sess.); Burns 49-3013; Baldwin 5434.

<sup>96</sup> Acts 1899, 1903, 1933; Burns 26-526; Baldwin 5401.

<sup>97</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

<sup>98</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>99</sup> Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

<sup>100</sup> <sup>1</sup> Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. Rogers v. Gibson (1860), 15 Ind. 218; Scotten v. State ex rel. Simonton (1875), 51 Ind. 52; Yater v. State ex rel. Board of County Comrs. (1877), 58 Ind. 299; Hostetler v. State ex rel. Dean (1878), 62 Ind. 183; Vanarsdall v. State ex rel. Watson (1879), 65 Ind. 176; Gauntt v. State ex rel. Stout (1881), 81 Ind. 137; Heagy v. State ex rel. Forkner (1882), 85 Ind. 269; Demarest v. Holdeman (1901), 157 Ind. 467, 62 N. E. 17.

<sup>101</sup> Cabel v. McCafferty (1876), 53 Ind. 75; Vigo Twp. v. Board of County Comrs. (1887), 111 Ind. 170, 12 N. E. 305.

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamp and indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.<sup>102</sup>

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains.<sup>103</sup> He places on the tax duplicate assessments for flood gates,<sup>104</sup> and for the cutting or eradicating of Canada thistles.<sup>105</sup> Formerly petitions for drainage and levee improvements were filed with the auditor, and he gave notice to viewers and kept a record of all proceedings concerning such improvements.<sup>106</sup>

The board doing county business (board of commissioners or board of justices) has always had power to establish, construct, repair, and vacate county roads.<sup>107</sup> The auditor, being clerk of said board, has always kept a record of road proceedings.<sup>108</sup> Road petitions are filed with the auditor for presentment to the board of commissioners.<sup>109</sup> When road viewers are appointed by the board, the auditor notifies the

<sup>102</sup> 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

<sup>103</sup> Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens* (1885), 104 Ind. 46, 3 N. E. 401; *Lockwood v. Ferguson* (1886), 105 Ind. 380, 5 N. E. 3; *Board of County Comrs. v. Fahlor* (1888), 114 Ind. 176, 15 N. E. 830.

<sup>104</sup> Acts 1903; Burns 27-703; Baldwin 5841.

<sup>105</sup> Acts 1929, 1927; Burns, 1939 suppl., 15-904; Baldwin, 1927 suppl., 3719.

<sup>106</sup> Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays* (1882), 88 Ind. 70; *Vizzard v. Taylor* (1884), 97 Ind. 90; *White v. Fleming* (1888), 114 Ind. 560, 16 N. E. 487; *Cooper v. Ray* (1897), 143 Ind. 328, 47 N. E. 668.

<sup>107</sup> Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. Laws 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. Laws 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.* Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>108</sup> Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8623.

<sup>109</sup> Acts 1919, 1921; Burns 36-304; Baldwin 8862.

viewers and the county surveyor of their appointment and the time and place for their meeting.<sup>110</sup> Reports of road viewers are filed with the auditor, and the auditor enters road assessments on the tax duplicate or special assessment roll.<sup>111</sup> The highway supervisor files with the auditor requisitions (on forms prescribed by the state board of accounts) for all tools, implements, supplies, materials, and equipment needed for county roads.<sup>112</sup> Formerly the auditor annually delivered to the road supervisor a list of landowners of the county,<sup>113</sup> and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.<sup>114</sup>

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.<sup>115</sup>

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the county auditor showing premiums received by the company for fire insurance on property in the county, and showing all losses paid by the company for the last semiannual period.<sup>116</sup> Formerly financial statements of banks were filed with the auditor.<sup>117</sup>

The auditor certifies to the city officials the number of taxable polls therein,<sup>118</sup> and certifies to the treasurer the amount of excise tax due from financial institutions.<sup>119</sup> For excise tax purposes, financial institutions deliver to the auditor each month a statement showing the number of its

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<sup>110</sup> Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. *Turpin v. Eagle Creek & L. W. L. G. R. Co.* (1874), 48 Ind. 45.

<sup>111</sup> Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. *Fiorer v. McAfee* (1893), 135 Ind. 540, 35 N. E. 277; *Smyth v. State ex rel. Braun* (1902), 158 Ind. 332, 62 N. E. 449.

<sup>112</sup> Acts 1935; Burns, 1939 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

<sup>113</sup> Rev. Stat. 1843, ch. 16, sec. 105.

<sup>114</sup> Acts 1883, ch. 56, sec. 20.

<sup>115</sup> Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

<sup>116</sup> Acts 1891, ch. 192, sec. 1.

On June 16, 1893 this act was held unconstitutional. *Henderson v. London & Lancashire Ins. Co.* (1893), 135 Ind. 23, 34 N. E. 565.

<sup>117</sup> Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

<sup>118</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>119</sup> Acts 1933; Burns 64-810; Baldwin 15591.

shares, amount of deposits, and kindred information.<sup>120</sup> Inheritance taxes collected by the county treasurer are transmitted to the state treasurer by warrants drawn by the auditor.<sup>121</sup> The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.<sup>122</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes, each township assessor makes inquiry concerning dogs and kennels, and collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.<sup>123</sup> The money so collected constitutes a fund known as the "dog fund", and is used to pay for damage to livestock caused by dogs. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred by the auditor on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.<sup>124</sup>

The auditor issues licenses for peddlers, shows, theaters,<sup>125</sup> and transient merchants,<sup>126</sup> and permits for public warehouses.<sup>127</sup> Formerly he issued liquor licenses,<sup>128</sup> and

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<sup>120</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-807; Baldwin 15588.

<sup>121</sup> Acts 1931; Burns 6-2414; Baldwin 15952.

<sup>122</sup> Acts 1933; Burns 64-917; Baldwin 15915.

<sup>123</sup> Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

<sup>124</sup> Acts 1925, ch. 144, secs. 11-13 (all repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176, secs. 8-12 (all repealed by Acts 1937, ch. 133, sec. 16). Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

<sup>125</sup> 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>126</sup> Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>127</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>128</sup> Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). ch. 59, sec. 2. *Padgett v. State* (1884), 93 Ind. 396.

received and filed remonstrances against issuance of saloon licenses by the board of commissioners.<sup>129</sup>

The auditor takes a very important part in the administration of the property-tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.<sup>130</sup> If a taxpayer refuses to make a personal-property tax return or an oath required by law, the township assessor makes a note of such refusal, and the auditor adds 50 percent to the personal-property valuation returned by the assessor.<sup>131</sup> If a landowner fails to furnish a list of lands within five days after being called on by a township assessor, as notified to do, the township assessor may make a list according to the best information he can obtain, and the auditor must add 25 percent to the valuation of such lands as returned by the assessor.<sup>132</sup> The auditor assesses omitted property, after giving notice to the taxpayer.<sup>133</sup> For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.<sup>134</sup> Acting for the county board of review, he

<sup>129</sup> Acts 1905, ch. 6, sec. 1.

<sup>130</sup> Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1019, 64-1023, 64-1029, 64-1102; Baldwin 15685, 15689, 15694, 15698. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>131</sup> Acts 1919; Burns 64-610; Baldwin 15578.

<sup>132</sup> Acts 1919; Burns 64-1008; Baldwin 15674.

<sup>133</sup> Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. *Scott v. Knightstown* (1882), 84 Ind. 108; *Leng v. Clapp* (1885), 103 Ind. 17, 2 N. E. 197; *Vandercook v. Williams* (1885), 106 Ind. 345, 1 N. E. 619; *Williams v. Segur* (1885), 106 Ind. 368, 1 N. E. 707; *McKeen v. Haskell* (1886), 108 Ind. 97, 8 N. E. 901; *Board of County Comrs. v. Senn* (1889), 117 Ind. 410, 20 N. E. 276; *Florer v. Sherwood* (1891), 128 Ind. 485, 28 N. E. 71; *Hennel v. Board of County Comrs.* (1892), 132 Ind. 32, 31 N. E. 462; *Florer v. Sheridan* (1894), 137 Ind. 28, 36 N. E. 365; *Cummings v. Stark* (1893), 138 Ind. 94, 34 N. E. 444; *Thiebaud v. Tait* (1894), 138 Ind. 238, 36 N. E. 525; *Eaton v. Union County Nat. Bank* (1895), 141 Ind. 136, 40 N. E. 668; *Buck v. Miller* (1896), 147 Ind. 586, 45 N. E. 647; *Miller v. Vollmer* (1899), 153 Ind. 26, 53 N. E. 949; *Crowder v. Riggs* (1899), 153 Ind. 158, 53 N. E. 1018; *Parkison v. Thompson* (1905), 164 Ind. 609, 73 N. E. 109; *Darnell v. State* (1910), 174 Ind. 143, 90 N. E. 769.

<sup>134</sup> Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

gives notice to taxpayers in order that the board may assess omitted property or raise valuations.<sup>135</sup> Appeals from the county board of review to the state board of tax commissioners are usually heard in the office of the auditor.<sup>136</sup> Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.<sup>137</sup> Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.<sup>138</sup>

The auditor annually makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. In townships having a population of 35,000 or containing a city of the second class (Adams, St. Joseph, Washington, Wayne), these lists are made out by the township assessors and furnished to the auditor, who returns them to the township assessors after making the tax duplicate.<sup>139</sup> The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>140</sup> The auditor keeps a record of all lands classified by the state forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.<sup>141</sup>

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No such deed or partition can be recorded by the recorder until after the instru-

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<sup>135</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>136</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>137</sup> Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

<sup>138</sup> Acts 1891, ch. 99, sec. 83.

<sup>139</sup> Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

<sup>140</sup> *Ibid.*

<sup>141</sup> Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

ment has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>142</sup> On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>143</sup> The auditor corrects on the tax books any errors as to description of property and names of owners.<sup>144</sup>

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.<sup>145</sup> The auditor furnishes the township assessors with all necessary books and blanks for the use of the township assessors in making assessment of real and personal property.<sup>146</sup> If a township assessor assesses real estate or improvements found omitted, he makes a return thereof to the auditor as of the year when the same should have been first assessed.<sup>147</sup> The auditor makes assessment of any newly platted land additions to any city or town.<sup>148</sup>

The auditor makes certificates as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a re-assessment of real estate.<sup>149</sup>

Sworn statements to obtain mortgage exemptions on assessment of real estate are filed with the auditor.<sup>150</sup> Sworn statements of volunteer firemen<sup>151</sup> and disabled veterans<sup>152</sup>

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<sup>142</sup> Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>143</sup> Acts 1921; Burns 64-519; Baldwin 14777.

<sup>144</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15682.

<sup>145</sup> Acts 1919; Burns 64-2803; Baldwin 15866.

<sup>146</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

<sup>147</sup> Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15682.

<sup>148</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>149</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019 (a); Baldwin, 1937 suppl., 15685 (a).

<sup>150</sup> Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567.

<sup>151</sup> 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

<sup>152</sup> Acts 1927; Burns 64-206; Baldwin 10987.

are also filed with the auditor to obtain tax exemptions. Applications for tax exemptions for educational, charitable, religious, fraternal, literary, and scientific organizations are filed with the auditor, who refers them to the board of review for approval.<sup>153</sup>

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.<sup>154</sup> After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.<sup>155</sup> The decision of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and the auditor certifies it to the taxing units interested therein.<sup>156</sup>

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.<sup>157</sup> At the annual meeting of the board of tax adjustment, the auditor lays before the board said budgets, tax levies, and rates.<sup>158</sup> If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.<sup>159</sup> The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.<sup>160</sup>

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<sup>153</sup> Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

<sup>154</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

<sup>155</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>156</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>157</sup> Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>158</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>159</sup> Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>160</sup> Acts 1937; Burns, 1939 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.<sup>161</sup>

After the assessment, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office, and delivers another copy thereof to the auditor of state.<sup>162</sup> Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.<sup>163</sup> Formerly a separate list of delinquent taxes was delivered by the county auditor to the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.<sup>164</sup>

The auditor annually makes out and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges interest and a penalty of 10 percent thereto, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.<sup>165</sup> The auditor, in person or by deputy, attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.<sup>166</sup> The auditor acts as arbiter

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<sup>161</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>162</sup> Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz (1834), 98 Ind. 231; Adams v. Davis (1886), 109 Ind. 10, 9 N. E. 162; Smith v. Smith (1902), 159 Ind. 388, 65 N. E. 183.

<sup>163</sup> Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

<sup>164</sup> Rev. Stat. 1843, ch. 12, sec. 68. Interview of June 29, 1939 with Frank G. Thompson, auditor of state.

<sup>165</sup> Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton (1876), 53 Ind. 126; Strope v. Board of County Comrs. (1880), 72 Ind. 42.

<sup>166</sup> Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben (1894), 137 Ind. 155, 36 N. E. 844.

in case of partial redemption of land from tax sale.<sup>167</sup> When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.<sup>168</sup> The auditor executes all tax deeds of land, and keeps a record thereof.<sup>169</sup> He issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at void tax sales.<sup>170</sup> Annually a list of lands offered at tax sale three years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.<sup>171</sup>

The state's share of taxes collected by the county treasurer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.<sup>172</sup>

The auditor manages the common school and Congressional township school funds,<sup>173</sup> with the exception of making loans. The school fund board, composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the Circuit Court, now makes all the loans from the school funds.<sup>174</sup> Whenever a school township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.<sup>175</sup> If no election is held for the purpose, the auditor conducts the sale of school lands,<sup>176</sup> also resales of forfeited lands.<sup>177</sup> He makes the same entries

<sup>167</sup> Acts 1919; Burns 64-2308; Baldwin 15826.

<sup>168</sup> Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

<sup>169</sup> Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2404 to 64-2409; Baldwin 15633 to 15838. Reid v. State ex rel. Thompson (1881), 74 Ind. 252; Smith v. Kyler (1881), 74 Ind. 575; Woolen v. Rockefeller (1881), 81 Ind. 208; Lancaster v. Du Hadway (1884), 97 Ind. 565; Rowe v. Peabody (1885), 102 Ind. 198, 1 N. E. 353.

<sup>170</sup> Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. Wolfe v. State ex rel. Kennard (1883), 90 Ind. 16.

<sup>171</sup> Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

<sup>172</sup> Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>173</sup> Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

<sup>174</sup> Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>175</sup> Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

<sup>176</sup> Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

<sup>177</sup> Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

of record required by law for loans to private individuals when the county borrows from the surplus funds.<sup>178</sup> Once each quarter, the auditor publishes in a local newspaper the amount of school funds unloaned.<sup>179</sup>

A certificate must be filed with the auditor showing that there is no incumbrance or lien on land offered as security for a loan of school funds.<sup>180</sup> The auditor specifies in the mortgage whether it belongs to the common school fund or to the Congressional township fund, and, if the latter, the particular township or townships whose funds are loaned.<sup>181</sup> Payments are made to the treasurer, and his receipt is filed with the auditor who gives the payer a quietus therefor, and makes the proper entries of record.<sup>182</sup> The auditor issues quitclaim deeds whenever there is a defect in the title of the owner of lands in school sections resulting from destruction of public records.<sup>183</sup> He enforces the collection of defaulted payments.<sup>184</sup> Whenever the auditor is unable to sell lands acquired through default, the county may pay the loan, accept the land, and take possession thereof.<sup>185</sup>

The auditor makes an annual report to the board of commissioners showing the condition and activity of the school funds. The board examines the report, makes a written report of such examination, enters it of record, and transmits copies to the state superintendent of public instruction.<sup>186</sup> Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional township

<sup>178</sup> Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

<sup>179</sup> Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie 63 Ind. 492.

<sup>180</sup> Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580.

<sup>181</sup> Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

<sup>182</sup> Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

<sup>183</sup> Acts 1915; Burns 28-239; Baldwin 5435.

<sup>184</sup> Rev. Stat. 1843, ch. 13, sec. 96. Acts 1855, ch. 86, sec. 86. Acts 1865. 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6594. Webb v. Moore (1865), 25 Ind. 4; Key v. Ostrander (1867), 29 Ind. 1; Bonnell v. Ray (1880), 71 Ind. 141; Willson v. Brown (1882), 82 Ind. 471; Benefiel v. Aughe (1884), 93 Ind. 401; Shannon v. Hay (1886), 106 Ind. 589, 7 N. E. 376; Winstandley v. Crim (1889), 117 Ind. 328, 20 N. E. 833; Haynes v. Cox (1889), 118 Ind. 184, 20 N. E. 758; Work v. State ex rel. Holland (1889), 120 Ind. 119, 22 N. E. 127; State ex rel. Longfellow v. Wimer (1906), 166 Ind. 530, 77 N. E. 1078.

<sup>185</sup> Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

<sup>186</sup> Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

a sufficient number of mortgages to cover the principal of its Congressional township fund.<sup>187</sup> A miscellaneous school fund account may be created by the auditor to enable him to aggregate small sums from school funds for one loan. He shows in his report the distribution of funds in full, and is liable to suit on his official bond for any failure to do so.<sup>188</sup>

The auditor keeps records of all financial transactions of the county. He keeps fee books, cashbooks,<sup>189</sup> warrant books,<sup>190</sup> cancelled warrants,<sup>191</sup> fee reports of county officers,<sup>192</sup> and township trustees' reports of receipts and disbursements (accompanied by vouchers).<sup>193</sup> He keeps separate accounts for each specific item of appropriation by the county council<sup>194</sup> and an account current, with the treasurer, of county funds.<sup>195</sup> He keeps a record of all the boards of which he is clerk or secretary, and must preserve the documents, books, papers, and maps deposited in his office.<sup>196</sup> If any map or plat in his office becomes worn or defaced, he makes a new copy thereof.<sup>197</sup> He takes copies of such maps or plats in the recorder's office as may be necessary for the discharge of the auditor's official duties.<sup>198</sup> He keeps a record of the costs of change of venue in judicial proceedings.<sup>199</sup> He keeps

<sup>187</sup> Acts 1865; Burns 28-263; Baldwin 6615.

<sup>188</sup> Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

<sup>189</sup> Acts 1840-41 (general), ch. 2, sec. 27. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

<sup>190</sup> Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>191</sup> Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

Interview of June 14, 1939 with E. P. Brennan, state examiner.

<sup>192</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>193</sup> Acts 1899, 1901; Burns 65-318; Baldwin 16075.

<sup>194</sup> Acts 1899; Burns 26-523; Baldwin 5387.

<sup>195</sup> Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423.

Wells v. State ex rel. Board of County Comrs. (1864), 22 Ind. 241.

<sup>196</sup> Acts 1840-41 (general), ch. 2, sec. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>197</sup> 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>198</sup> *Ibid.*

<sup>199</sup> Acts 1913; Burns 2-1417, 2-1418; Baldwin 199, 200.

a record of the appraisement and sale of swamp and indemnity lands, saline lands, and forfeited lands.<sup>200</sup>

The books and accounts of the auditor are audited, from time to time without notice, by the state examiner.<sup>201</sup> Before 1909 the board of commissioners, at each regular session, examined the books of the auditor.<sup>202</sup>

The state board of accounts prescribes the forms of books, reports, accounts, and records for the use or disposition of all county auditors for every power and duty of the auditors which in any way concerns or affects the accounting for public funds.<sup>203</sup>

Forms for the following books were prescribed for the county auditors by the state board of accounts: Fee and cashbook; tax duplicate; ditch-tax duplicate; ditch tax-duplicate-10 year payment; moratorium-tax duplicate; register of warrants on treasurer; register of quietuses and receipts; distribution record; record of commissioners' allowances; ledger of appropriations and disbursements; ledger of receipts and disbursements; record of receipt and sale of intangible-tax stamps; register of banks and savings banks; register of building and loan associations; register of school-fund loans; register of school-fund-interest contracts and record of payments; inventory of school-fund loans; record of condition of school funds; register of macadam-road bonds and interest paid; bond register; transfer record; venue record; monthly balance record; auditor's financial statement; insolvent record; register of receipts and sales of material-county infirmary; construction record-ruled, printed, punched; register of redemption bonds; bidders' record; work sheet-delinquent-tax extension; abstract of delinquent tax 1934 carried to 1935 duplicate; poor-relief ledger; township-poor-bond redemption ledger; ledger of poor-bond receipts; and auditor's poor-claim register.<sup>204</sup>

Forms for the following blanks, documents, and reports were prescribed for the county auditors by the state board

<sup>200</sup> 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

<sup>201</sup> Acts 1909; Burns 60-211; Baldwin 13862.

<sup>202</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>203</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>204</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

of accounts: Report of fees collected; claim for burial of soldiers; ordinance of appropriation; estimate of revenues other than taxes; warrants on treasurer; claims against county; dog claims; estimate of county commissioners-general; estimates of county commissioners for orphans' home, tuberculosis hospital, county hospital, and insane hospital; estimates of clerk of the circuit court, auditor, treasurer, recorder, sheriff, surveyor, superintendent of schools, coroner, county assessors, township assessors, prosecuting attorney, highway supervisor, circuit court, and superior courts; auditor's card; report of superintendent of infirmary; report of viewers and engineer; county engineer's monthly estimate; surveyor's claim blank; specifications, bid, and contract for county printing and purchase of supplies; requisition; apportionment of current tax-June settlement; apportionment of current tax-December settlement; apportionment of bank or building and loan tax-June or December settlement; apportionment of delinquent tax-June settlement; apportionment of delinquent tax-December settlement; apportionment or moratorium tax-June or December settlement; distribution sheets-June and December; apportionment of treasurer's fees for collection of delinquent tax-June or December settlement; election to accept extension of school-fund loan; contract for installment payments of delinquent interest on school-fund loans; agreement for issuance of redemption bond; revised budget estimate of funds-county, township, civil city, civil town, school corporation, and library; estimate of miscellaneous revenue-county general fund, township fund, corporation fund, school corporation, civil town; June settlement sheets; December settlement sheets; abstract of taxables; notice to bidders; certificate of code compliance; school-fund mortgage; journal voucher; auditor's report to commissioners; and kennel license.<sup>205</sup>

The state board of accounts was created in 1909.<sup>206</sup> Nearly all of the afore-mentioned forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did

<sup>205</sup> *Ibid.*

<sup>206</sup> Acts 1909; Burns 60-202; Baldwin 13855.

before 1924, since the board consolidated many of his records that year.<sup>207</sup>

The auditor's office must be kept at the county seat, open for the transaction of business at all times during business hours.<sup>208</sup>

#### AUDITS AND REPORTS

341. FIELD EXAMINERS REPORTS, 1866-. 7 f. b.

Reports of audits of county offices by field examiners of state board of accounts, showing dates of report and audit, names of office, official and examiners, and statement of condition of accounts. Arr. chron. by dates of reports. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

342. REPORTS OF STATE BOARD OF EXAMINERS, 1913-. 4 f. b.

Reports of audits of treasurer's office by field examiners of state board of accounts, showing dates of report and audit, names of office, official and examiners, and statement of condition of accounts. Arr. chron. by dates of reports. No index. Typed. 11 x 5 x 14. Treas. off.

343. TRUSTEE'S ANNUAL REPORT TO TOWNSHIP ADVISORY BOARD, 1921-. 304 vols. (labelled by townships).

Copies of township trustees' annual reports to township advisory board submitted to auditor, showing date of report, amounts of all receipts and expenditures, statement of township indebtedness, list of outstanding warrants, names of township, trustee, payer, payee and auditor, and approval of auditor. Arr. chron. by dates of reports. No index. Hdw. 72 pp. 15 x 10 x 1/2. Aud. off.

344. ANNUAL FINANCIAL REPORT OF SCHOOLS, 1922-. 10 bdls.

Annual financial statements made to auditor by treasurers of school boards for audit and approval, showing date of statement, names of school and treasurer, summary of all receipts and disbursements, and balance. Arr. chron. by dates of reports. No index. Hdw. and typed. 8 x 14 x 2 1/2. Aud. off.

345. REPORTS OF STATE BOARD OF TAX COMMISSIONERS, 1927-. 4 f. b.

Reports of re-assessment of property on assessments appealed to state board of tax commissioners, showing dates of report and assessment, name of property owner, location and description of property, and assessed valuation of property. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Aud. off.

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<sup>207</sup> *Ibid.* Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>208</sup> 1 Rev. Stat. 1852; Burns 49-3002; Baldwin 5416.

346. REPORTS OF FEES COLLECTED, 1936-. 1 f. b.  
Officers' quarterly reports of fees collected, showing date of report, names of official and office, and nature and amount of fees. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Aud. off.

#### RECEIPTS AND DISBURSEMENTS

347. FEE AND CASH BOOK, 1897-. 5 vols.  
Record of fees and cash received by auditor, showing date, number, amount and purpose of receipt, name of payer and total amount received for month. Arr. chron. by dates of receipts. No index. Hdw. 275 pp. 18 x 15 x 3. Aud. off.

348. LEDGER OF RECEIPTS [and Disbursements], June 1925-. 3 vols.  
Record of receipts and disbursements of county funds, showing dates, amounts, numbers, and nature of receipt and disbursement, names of payee or payer and fund, and balance or overdraft. This is a combination of two records formerly kept separately: Record of Receipts, 1898-May 1925, entry 349; Disbursements, 1900-1911, entry 350. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 18 x 14 x 3. Aud. off.

349. RECORD OF RECEIPTS, 1898-May 1925. 4 vols. June 1925- in Ledger of Receipts [and Disbursements], entry 348.  
Record of receipts of county revenue from various sources, showing date, number, amount and nature of receipt, and name of payee or payer, and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 96 pp. 18 x 26 x 2. Aud. off.

350. DISBURSEMENTS, 1900-1911. 5 vols. June 1925- in Ledger of Receipts [and Disbursements], entry 348.  
Record of disbursements of county funds, showing date, number, purpose and amount of order, names of payee and fund, and total disbursements from each fund. Arr. chron. by dates of orders. No index. Hdw. 200 pp. 20 x 27 x 2. Aud. off.

351. LEDGER OF DISBURSEMENTS [Ledger of Receipts Appropriations and Disbursements], 1900-1910, 1919-. 18 vols.  
Title varies: Record of Appropriations and Disbursements, 1900-1906, 8 vols; Appropriation Record and Ledger of Accounts, 1907-10, 1 vol.; Appropriation Record and Ledger, 1919-25, 2 vols.  
Record of receipts, appropriations and disbursements of various county funds, showing date, amount and purpose of receipt, ap-

appropriation or disbursement, names of payee or payer and fund, number and amount of receipt or warrant, and overdraft or balance. Arr. by names of appropriations, thereunder chron. by dates of warrants. No index. Hdw. 1000 pp. 18 x 13 x 5. Aud. off.

352. FINANCIAL STATEMENT, 1911-. 4 vols. Title varies:

Record of Monthly Balances, 1911-June 1925, 2 vols. Auditor's monthly financial reports of county revenue and miscellaneous funds, showing date of report, source of funds, nature and amounts of receipts and disbursements, and total balance in accounts, funds and appropriations. Arr. chron. by dates of reports. No index. Hdw. 200 pp. 24 x 17 x 1½. Aud. off.

353. DISTRIBUTION OF TAX COLLECTIONS, 1911-. 9 vols.

Record of semiannual distribution of tax collections, showing date of distribution, current year collections, former delinquencies, amount of polls, amounts distributed to various funds, and amount due from state treasurer. Arr. chron. by dates of distribution. No index. Hdw. 600 pp. 15 x 10 x 4. Aud. off.

354. CERTIFICATES OF DISTRIBUTION, 1927-. 4 vols.

Stubs of certificates of distribution of revenue to various taxing units, showing date, number and amount of certificate, and names of taxing unit and fund. Arr. chron. by dates of certificates. No index. Hdw. 400 pp. 18 x 13 x 2. Aud. off.

355. CHANGE OF VENUE, 1903-. 3 f. b.

Claims paid for court causes venued to other counties, showing number and nature of cause, names of plaintiff, defendant, judge, jurors, court and county, itemized statement of expense, warrant number, and date of payment. Arr. chron. by dates of payments. No index. Hdw. 11 x 5 x 14. Aud. off.

For other change of venue records, see entries 202, 365.

356. COURT ALLOWANCES, 1903-. 44 f. b.

Orders of allowance for court expenses, showing dates of allowance and filing, term of court, names of court, judge and payee, nature of service, and amount of allowance. Arr. chron. by dates of allowances. No index. Hdw. 11 x 5 x 14. Aud. off.

357. SPECIAL JUDGES ALLOWANCES, 1903-. 3 f. b.

Court allowances for services of special judges, showing dates of appointment, service and allowance, term of court, names of judge and court, and amount of allowance. Arr. chron. by dates of allowances. No index. Hdw. 11 x 5 x 14. Aud. off.

358. TREASURER'S RECEIPTS, 1903-. 18 f. b.

Treasurer's receipts issued for payment of money other than taxes submitted to auditor for quietus, showing date, number

and amount of receipt, and name of payee. Arr. chron. by dates of receipts. No index. Hdw. 11 x 5 x 14. Aud. off.

359. CANCELLED CHECKS [School Board], 1906-. 82 f. b. Vouchers and cancelled checks issued by school boards for payment of salaries, supplies and equipment, showing dates and amounts of voucher and check, names of school corporation, payee and depository, check number, and fund debited. Arr. num. by check nos. No Index. Hdw. 11 x 5 x 14. Aud. off.

360. AUDITOR'S RECORD OF WARRANTS, 1921-. 105 vols. Triplicate copies of warrants drawn on treasurer, showing date of warrant, names of fund and payee, warrant and appropriation numbers, and amounts of warrant and fund from which drawn. Arr. chron. by dates of warrants, thereunder num. by warrant nos. No index. Typed. 19 x 12 x 3. Aud. off.

361. RECEIPTS, 1925-. 5 vols. Carbon copies of receipts issued by auditor for fees received, showing date, amount and number of receipt, name of payer, and nature of fee. Arr. chron. by dates of receipts. No index. Typed. 900 pp. 17 x 11 x 5. Aud. off.

362. CERTIFICATE OF AWARD, 1935-. 3 f. b. Auditor's copy of certificates of awards issued by department of public welfare, showing dates of certificate, filing and award, name and address of applicant, certificate and application code and serial numbers, and amount of award. Arr. chron. by dates of certificates. No index. Typed. 11 x 5 x 14. Aud. off.

363. CHILD'S WELFARE ASSISTANCE WARRANTS, 1937-. 1 vol. Carbon copies of warrants drawn on depositories for payment of assistance for dependent children, showing date, number and amount of warrant, name and address of recipient, and name of bank. Arr. num. by warrant nos. No index. Typed. 500 pp. 11 x 9 x 2½. Aud. off.

For other dependent children assistance records, see entries 448-470.

364. OLD AGE ASSISTANCE WARRANTS, 1937-. 1 vol. Carbon copies of warrants drawn on depositories for payment of old-age assistance, showing date, number and amount of warrant, and names of recipient and depository. Arr. num. by warrant nos. No index. Typed. 2000 pp. 11 x 9 x 6. Aud. off.

For other old-age assistance records, see entries 145, 146, 438-445.

365. REGISTER OF VENUE COSTS, 1897-1931. 1 vol. Record of receipts and disbursements for court causes venued to and from other counties, showing cause number, dates and

amounts of receipts and disbursements, names of county, court, payer and payee, and receipt and warrant numbers. Arr. chron. by dates of receipts or disbursements. No index. Hdw. 150 pp. 18 x 12 x 1½. Aud. off.

For other change of venue records, see entries 202, 355.

366. CASH BOOK [Poor Relief], 1919-25. 2 vols.

Record of expenditures for poor relief, showing dates and amounts of claim and allowance, name of vender, nature and amount of merchandise furnished and service rendered, and date of payment. Arr. chron. by dates of payments. No index. Hdw. 120 pp. 14 x 9 x ½. Attic stor. rm.

367. RECORD OR JOURNAL OF COUNTY ORDERS, 1866, 1867, 1872-98, 1907-11. 7 vols.

Register of orders drawn on treasurer for disbursement of county funds, showing date, number, amount and purpose of order, and name of payee. Arr. num. by order nos. No index. Hdw. 300 pp. 15 x 10 x 2. Aud. off.

## TAXES

### APPRAISEMENTS

368. TRANSFER BOOK, 1843-. 47 vols. (labelling varies). Record of transfer of titles to real property, showing dates of transfer and deed, names of grantor, grantee and township, location and description of property, and amount of consideration and fee. Arr. by twps., thereunder chron. by dates of transfers. For index, see entry 369. Hdw. 200 pp. 17 x 14 x 2. Aud. off.

369. CARD FILE INDEX TO TRANSFER RECORDS, 1843-. 16 f. d. Index to Transfer Book, entry 368, showing date of transfer, names of grantor, grantee and township, location and description of property, valuation of real estate and improvements, and volume and page reference to recording. Arr. by twps., thereunder alph. by names of grantees. Typed. 6 x 8 x 16. Aud. off.

370. ABSTRACT OF TAXABLE PROPERTY, 1903-. 22 bdls. Abstracts of all taxable property in county, showing date of abstract, valuation of personal property, real estate and improvements, number of polls, amount of intangibles, deductions for mortgage and soldiers' exemptions, names of taxing units, and amount of tax levy. Arr. chron. by dates of abstracts. No index. Hdw. 10 x 4 x 2½. Aud. off.

## RETURNS

## 371. STATEMENTS OF CORPORATIONS, 1873-. 23 f. b.

Statements of domestic corporations of all holdings in county, showing date of statement, name of corporation, location and description of property, market value of preferred and common stock, present value of all buildings, machinery, equipment, furniture, fixtures, merchandise and supplies, gross receipts for year, and copy of balance sheet. Arr. chron. by dates of statements. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

## ASSESSMENTS LISTS

## 372. ASSESSORS BOOKS, 1917-. 356 vols.

Record of all taxable property in county, showing date of assessment, names of property owner and taxing unit, location and description of property, assessed value of all taxables, and deductions for mortgage and soldiers' exemptions. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. and typed. 100 pp. 18 x 14 x 1. 311 vols., 1927-35, assr. off.; 22 vols., 1936, attic stor. rm.; 23 vols., 1937-, aud. off.

## 373. PERSONAL ASSESSMENTS, 1924-. 1614 vols. (labelled by taxing units).

Schedules of personal property subject to taxation, showing date of assessment, names of property owner and taxing unit, itemized list of personal property assessed, and assessed valuation. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 300 pp. 14 x 8 x 2. 105 vols., 1924-27, attic stor. rm.; 1509 vols., 1928-, assr. off.

## 374. REAL ESTATE ASSESSMENTS, 1928-. 115 vols. (labelled by taxing units).

Record of lands, lots, and improvements subject to taxation, showing date of assessment, names of property owner and taxing unit, location and description of property, and assessed valuation of all lands, lots, and improvements. Arr. alph. by taxing units, thereunder alph. by names of owners. No index. Hdw. 100 pp. 14 x 8 x 1½. Assr. off.

## PUBLIC IMPROVEMENTS (see also entries 31-38, 319-322)

## 375. BONDED DITCH ASSESSMENTS, 1899-1915. 2 vols.

Record of assessments levied for construction of ditches financed by bond issues, showing dates of bond issue, assessment and payment, names of taxing unit, ditch and property owner, location and description of land benefited, and amounts of bond issue, assessments and payments. Arr. chron. by dates of bond issues. No index. Hdw. 149 pp. 18 x 23 x 2. Aud. off.

## 376. DITCH RECORD, 1830-1906. 2 vols.

Record of assessments levied and cost for construction of ditches, showing names of ditch and property owner, amount of assessment, location and description of land and ditch, amount due persons for labor, name of payee, and date of payment. Arr. by names of ditches, thereunder chron. by dates of payments. Indexed alph. by names of ditches. Hdw. 200 pp. 14 x 9 x 1½. Aud. off.

## 377. GRAVEL ROAD DUPLICATE, 1884-1901. 9 vols.

Record of assessments levied for construction and maintenance of gravel roads, showing dates of assessment and payment, names of road, taxing unit and property owner, location and description of property, and amounts of assessment, delinquencies, penalties, interest, installments and payment. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 75 pp. 16 x 14 x ½. Aud. off.

## EXEMPTIONS

## 378. AFFIDAVITS OF SOLDIERS EXEMPTION, 1925-. 3 vols.

Affidavits filed to secure tax exemptions by soldiers or their widows, showing dates of affidavit, notarization and filing, name, age and address of soldier or widow, and location and description of property. Arr. alph. by names of soldiers or widows. No index. Hdw. 25 pp. 8½ x 7 x ½. Aud. off.

## 379. MORTGAGE EXEMPTIONS, 1935-. 89 vols.

Affidavits of mortgage indebtedness, showing dates of affidavit and filing, names of mortgagor and mortgagee, location and description of property, and amount of mortgage. Arr. alph. by names of mortgagors. No index. Hdw. 400 pp. 14 x 9 x 2. Aud. off.

## 380. RECORD OF NONTAXABLE PROPERTY, not dated. 1 vol.

Register of property exempt from taxation, including churches, schools, lodges, cemeteries, infirmaries, orphanages, and county institutions, showing names of property owner and taxing unit, and location and description of property. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 160 pp. 18 x 12 x 2½. Aud. off.

## DELINQUENTS

## 381. TAX SALE REGISTER, 1841-. 9 vols. Title varies:

Register of Tax Sale of Lands and Town Lots, 1841-1914, 8 vols.

Record of real property sold for nonpayment of taxes, showing dates of sale and redemption, names of original owner, purchase

and redeemer, location and description of property, amount of delinquent taxes due, and amount realized from sale. Arr. chron. by dates of sale. For index, see entry 382. Hdw. 200 pp. 18 x 12 x 2. Aud. off.

For tax title deed record, see entry 107.

382. TAX SALE INDEX, 1841-. 2 vols.

Index to Tax Sale Register, entry 381, showing certificate number, names of original owner and purchaser, location and description of property, and volume and page reference to recording. Arr. alph. by names of original owners. Hdw. 319 pp. 19 x 18 x 2½. Aud. off.

383. TAX SALE CERTIFICATES, 1844-. 30 f. b.

Original tax sale certificates issued to purchasers of property sold for nonpayment of taxes, showing dates of certificate and sale, names of property owner and purchaser, location and description of property, and amounts of delinquency, penalty, interest and sale. Arr. chron. by dates of certificates. No index. Hdw. 11 x 5 x 14. Aud. off.

384. TAX SALE CERTIFICATE ASSIGNMENT, 1845-. 5 vols.

Record of assignment of tax sale certificates, showing dates of certificate and assignment, certificate number, and names of assignors and assignees. Arr. chron. by dates of assignments. No index. Hdw. 200 pp. 14 x 8½ x 1. Aud. off.

385. DELINQUENT TAX RETURNS, 1860-83, 1904-. 3 vols.

Record of property returned delinquent for nonpayment of taxes, showing date of delinquency, names of property owner and taxing unit, location and description of property, assessed valuation, amounts of delinquency, penalty and interest, and tax duplicate number. Arr. by taxing units, thereunder alph. by names of taxpayers. Hdw. and typed. 200 pp. 20 x 15 x 2. Aud. off.

386. TAX SALE REDEMPTION, 1867-. 2 vols.

Record of redemption of property sold for nonpayment of taxes, showing date of redemption, names of original owner and purchaser, location and description of property, tax sale certificate number, and amount of redemption. Arr. chron. by dates of redemptions. No index. Hdw. 215 pp. 18 x 12 x 2. Aud. off.

387. TAX SALE LISTS, 1916-. 7 f. d.

Lists of property owners delinquent in tax payments and notices of proposed sales for delinquencies, showing name of property owner, location and description of property, and amount of delinquency. Arr. alph. by names of property owners. No index. Typed. 11 x 5 x 14. Aud. off.

## 388. CERTIFICATES OF ERROR, 1933-. 5 f. b.

Auditor's certificates to treasurer to correct errors improperly charged on tax duplicates, showing date of certificate, names of taxpayer and taxing unit, certificate and tax duplicate numbers, and amount and nature of error. Arr. chron. by dates of certificates. No index. Hdw. 11 x 5 x 14. Aud. off.

## 389. [TAX REFUND JOURNAL], 1923-. 1 vol.

Register of payments made to taxpayers for refund of overpayments of taxes, showing date of refund, name of taxpayer, location of property, amounts of overpayment, refund, current taxes, delinquencies, fees and advertising costs, and volume and page reference to Tax Duplicates, entry 314. Arr. chron. by dates of refunds. No index. Hdw. and typed. 250 pp. 17 x 12 x 1½. Aud. off.

## 390. TAX REFUNDS, 1925-. 3 f. b.

Petitions for refund of overpayment of taxes, showing dates of petition and filing, name and address of petitioner, nature and amount of refund, final allowance, and petitioners oath. Arr. chron. by dates of petitions. No index. Hdw. 11 x 5 x 14. Aud. off.

## PLATS (see also entries 111, 112)

## 391. ASSESSORS PLAT BOOKS, not dated. 60 vols. (labelled by townships).

Drawings of plats of lands and lots in county, showing range, township, section and plat numbers, names of owners and township, location and description of property, number of acres, value of lands, lots and improvements, date of transfer, and volume and page reference to Transfer Book, entry 368. Arr. by twps., thereunder num. by range and section nos. No index. Hdw. 100 pp. 22 x 23 x 1. Aud. off.

## 392. PLAT OF FORT WAYNE, 1833-. 1 vol.

Plat drawings of city of Fort Wayne, additions and subdivisions, showing size of lots and parcels, and location of lots, streets, alleys, parks and public buildings. Arr. alph. by names of additions and subdivisions. For index, see entry 393. Condition poor. Hdw. 90 pp. 26 x 44 x 4. Aud. off.

## 393. INDEX TO PLATS, 1833-. 3 vols.

Index to Plat of Fort Wayne, entry 392, showing names of addition or subdivison, lot number, and volume and page reference to recording. Arr. alph. by names of additions or subdivisions. Hdw. 200 pp. 18 x 13 x 2. Aud. off.

## 394. TOWN PLATS, 1837-. 1 vol.

Plat drawings of cities, towns, additions and subdivisions, showing dates of original plat, addition and recording, names

of property owner, plat, city, town, addition, subdivision and township, location and description of property, lot and addition numbers, and volume and page reference to Deed Record, entry 103. Arr. by names of cities or towns. No index. Hdw. 75 pp. 22 x 30 x 1½. Aud. off.

395. LOT BOOK, 1890-. 13 vols. (1, 1-10, A, C).

Register of lots, additions and subdivisions in city of Fort Wayne, showing names of owner and addition or subdivision, location and description of property, lot number, and volume and page reference to Transfer Book, entry 368. Arr. by names of additions or subdivisions. For index, see entry

396. Hdw. 300 pp. 17 x 14 x 2½. Aud. off.

396. LOT BOOK INDEX, 1890-. 2 vols.

Index to Lot Book, entry 395, showing names of addition, subdivisions and township, number and size of lot, and volume and page reference to recording. Arr. alph. by names of towns and subdivisions. Hdw. 200 pp. 18 x 12 x 3. Aud. off.

397. PLAT BOOK, 1911-. 40 vols.

Plat drawings of land in Allen County, showing dates of deed and transfer, names of grantor and grantee, location and description of property, and kind of deed. Arr. by twps., thereunder by section nos. No index. Hdw. 50 pp. 26 x 23 x 2. Aud. off.

#### SCHOOL FUNDS

(See also entries 115, 312, 313)

398. REGISTER OF SCHOOL FUND LOANS, 1853-. 2 vols.

Record of mortgages executed to secure school-fund loans, showing date, number and amount of mortgage, name of mortgagor, location and description of property, and date of maturity. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors. Hdw. 250 pp. 14 x 14 x 2½. Aud. off.

399. AUDITOR'S REPORT OF DISTRIBUTION AND CONDITION OF SCHOOL REVENUE, 1911-. 1 f. b.

Copies of reports to state superintendent of public instruction of distribution and condition of school funds, showing date of report, names of township, city and school, attendance record, amounts of tuition, liquor licenses, dog fund, common and Congressional-school funds apportioned to each school unit, and total amount of distribution. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Aud. off.

400. JOURNAL-LEDGER SCHOOL DISTRIBUTION, 1856-93. 2 vols.  
(1, B).

Record of distribution of school funds, showing date of distribution, name of school unit, amounts apportioned to various school units, balance in fund, and enumeration of school children for basis of apportionment. Arr. by school units, thereunder chron. by dates of distribution. No index. Hdw. 200 pp. 18 x 13 x 2½. Aud. off.

OFFICIAL BONDS

(See also entries 41-47)

401. OFFICIAL BONDS, 1907-. 2 f. b.

Original bonds posted by township trustees and assessors, showing dates of bond and notarization, amount and conditions of bond, and names of official and sureties. Arr. chron. by dates of bonds. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

402. MISCELLANEOUS BOND RECORD, 1908-19. 2 vols. Discontinued.

Transcripts of bonds posted by county and township officials, including clerk of the circuit court, treasurer, superintendent of schools, recorder, health officer, surveyor, coroner, assessor, highway superintendent, treasurer of school board, township trustees, and drainage commissioners, showing dates of filing and approval, names of official, office and sureties, and term, amount and conditions of bond. Arr. chron. by dates of filing. Indexed alph. by names of officials. Hdw. 150 pp. 18 x 13 x 1½. Aud. off.

MISCELLANEOUS

403. INDIAN RESERVES, 1872. 1 vol.

Drawings of reservations granted by federal government to Indians, showing date of recording, names of reservation and township, location of reserve, details of survey, and area covered. No orderly arr. Indexed alph. by names of reservations. Hdw. 26 pp. 22 x 30 x 1½. Aud. off.

404. SALE OF SWAMP LANDS, 1853. 1 f. b.

Record of certificates issued to purchasers of swamplands, showing certificate number, date of sale, name of purchaser, location and description of land, and amount of consideration. Arr. num. by certificate nos. No index. Hdw. 11 x 5 x 14. Aud. off.

## XVIII. REGISTRATION OFFICER

The clerk of the circuit court serves ex officio as the registration officer of Allen County by authority of an act of 1933. The registration officer may appoint as many deputy registration officers for the county as may be necessary. They shall take an oath administered by the clerk of the circuit court before entering upon the discharge of their duties; they are to receive a certificate of appointment which they will always keep with them when about their official duties. These deputies are to be selected, as nearly as practicable, in equal numbers, from the two major political parties.<sup>1</sup>

The Constitution of 1851 prescribes the qualifications of voters<sup>2</sup> and the amendments of 1881 and 1926 enjoined the general assembly to provide for the registration of all persons entitled to vote.<sup>3</sup> Various laws for registration have been enacted: An act of 1867, establishing a township board of registry,<sup>4</sup> was repealed in 1869;<sup>5</sup> acts of 1889<sup>6</sup> and 1891,<sup>7</sup> providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890<sup>8</sup> and 1892,<sup>9</sup> respectively; an act of 1911, providing for a precinct registration board,<sup>10</sup> was repealed in 1917.<sup>11</sup> An act of 1917 created a board of registration commissioners, generally called the registration board, consisting of the clerk of the circuit court and two qualified electors appointed by him, one from each of the major political parties;<sup>12</sup> it was repealed in 1919,<sup>13</sup> and was succeeded by an act creating precinct boards.<sup>14</sup> An amendatory act of 1925 created a registration board, consisting of the auditor and a person of opposite political faith,

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<sup>1</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>2</sup> Const., art. 2, sec. 2 (as amended 1881).

<sup>3</sup> *Ibid.*, sec. 14 (as amended, 1881, 1926).

<sup>4</sup> Acts 1867, ch. 51, sec. 2.

<sup>5</sup> Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

<sup>6</sup> Acts 1889, ch. 87, sec. 13.

<sup>7</sup> Acts 1891, ch. 144, sec. 1.

<sup>8</sup> 125 Ind. 281.

<sup>9</sup> 144 Ind. 423.

<sup>10</sup> Acts 1911, ch. 150, secs. 3-15.

<sup>11</sup> Acts 1917, ch. 139, sec. 47.

<sup>12</sup> *Ibid.*, sec. 4.

<sup>13</sup> Acts 1919, ch. 150, sec. 1.

<sup>14</sup> *Ibid.*, ch. 186, sec. 4.

appointed by him.<sup>15</sup> In 1927 the 1919 act and all subsequent acts were repealed.<sup>16</sup> Until the present system was established by an act of 1933, amended in 1935,<sup>17</sup> there was no registration system.

Registration of all voters is a requirement for voting at all general, primary, and special elections in which all qualified voters of the state may participate and must be made 29 days prior to general and primary elections.<sup>18</sup> The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.<sup>19</sup>

The official registration books consist of the original affidavits of registration, fastened in binders,<sup>20</sup> and constitute a permanent registration record.<sup>21</sup> If the registration books of any precinct are destroyed or mutilated, or are inaccessible, a registration is had upon determination by the board of commissioners of the county.<sup>22</sup> The clerk provides typewritten or photostatic copies of the registration list, for each precinct in the county, not later than ten days before the election. These are for the election officials and party heads, and may be publicly inspected at the office of the clerk.<sup>23</sup>

Voters need not register a second time, as long as they continue to reside in the same county; however, failure to vote in any two-year period automatically cancels the elector's registration, and he must apply for a reinstatement of registration before he may vote.<sup>24</sup> It is the duty of the clerk of the circuit court or registration officer to continually check the registration lists for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers,<sup>25</sup> and the clerk prepares a list of all voters dis-

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<sup>15</sup> Acts 1925, ch. 138, sec. 1.

<sup>16</sup> Acts 1927, ch. 195, sec. 1.

<sup>17</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>18</sup> Acts 1933; Burns 29-301, 29-307; Baldwin 7309, 7305. Acts 1933, 1935; Burns, 1939 suppl., 29-336; Baldwin, 1935 suppl., 7334.

<sup>19</sup> Acts 1933; Burns 29-309; Baldwin 7307.

<sup>20</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-313; Baldwin, 1935 suppl., 7311. Acts 1933; Burns 29-316; Baldwin 7314.

<sup>21</sup> Acts 1933; Burns 29-302; Baldwin 7300.

<sup>22</sup> Acts 1933; Burns 29-304; Baldwin 7302.

<sup>23</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-317; Baldwin, 1935 suppl., 7315.

<sup>24</sup> Acts 1933; Burns 29-303, 29-320; Baldwin 7301, 7318.

<sup>25</sup> Acts 1933; Burns 29-321; Baldwin 7319.

franchised.<sup>26</sup> When a voter moves from one county to another, he is required to register in the new county, and the clerk cancels the former registration for the voter.<sup>27</sup> The clerk notifies a voter whenever the voter's registration has been challenged, and the clerk cancels the registration if he does not receive a sworn statement from the voter certifying that he (the voter) is qualified to vote as stated.<sup>28</sup>

The expense of the preparation of registration is paid out of the general fund of the county treasury, authorized by the county commissioners, in the same manner as election expenses are paid and the expenses of preparing lists of registered voters for use in city elections are paid by the city.<sup>29</sup>

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.<sup>30</sup>

405. [MASTER FILE OF VOTERS], 1934-. 286 vols. (numbering varies).

Permanent registration of eligible voters, showing name, age and address of voter, party affiliation, ward and precinct numbers, and voter's affidavit. Arr. alph. by names of voters. No index. Typed. 300 pp. 15 x 11 x 1. Clk. off.

406. [VOTERS' REGISTRATION BOOKS], 1934-. 358 vols.

Register of qualified voters in county, showing name, age and birthplace of voter, name of street, house number, party affiliation, and registration, ward and precinct numbers. Arr. alph. by names of streets, thereunder num. by house nos. No index. Hdw. 400 pp. 5 x 11 x 1. Clk. off.

407. REGISTER OF INTENTION TO HOLD RESIDENCE, 1890-92.  
1 vol.

Record of notices of voters whose duties require their absence from state but retain residence in county as legal voting place, showing date of notice and recording, name, age and residence of voter, and voters affidavit not to exercise right of suffrage elsewhere. Arr. chron. by dates of notices. Indexed alph. by names of voters. Hdw. 200 pp. 18 x 13 x 2. Clk. off.

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<sup>26</sup> Acts 1933; Burns 29-322; Baldwin 7320.

<sup>27</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-314; Baldwin, 1935 suppl., 7312. Acts 1933; Burns 29-326; Baldwin 7324.

<sup>28</sup> Acts 1933; Burns 29-325; Baldwin 7323.

<sup>29</sup> Acts 1933; Burns 29-305; Baldwin 7303.

<sup>30</sup> Acts 1933; Burns 29-334; Baldwin 7332.

## XIX. BOARD OF PRIMARY ELECTION COMMISSIONERS

The board of primary election commissioners of Allen County was established by acts of 1907<sup>1</sup> and 1915, and subsequent amendatory acts. The members are the clerk of the circuit court and two persons appointed by him, one from each of the major political parties, nominated by the respective chairmen of the county committees of the parties. The primary election commissioners serve as election commissioners at the election for which nominations by the primary are made.<sup>2</sup> Each of these commissioners is allowed \$300 for his services at any primary election.<sup>3</sup>

Prior to 1907 nominations had been strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which might be a meeting, either of all the voters of the party in the precinct (township) or of party members interested sufficiently to attend (county and state). Out of the latter developed the party convention—an assembly of official delegates; these delegates were chosen by party officials such as precinct committeemen or county or district chairmen, as the case might be.<sup>4</sup>

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of the party to hold a primary, which was under the control of the chairman who certified the names of the nominees to the county board of election commissioners.<sup>5</sup>

An act of 1901, mandatory upon all parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections: One for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen, elected at the first primary, determined whether the party candidates should be nominated at a primary election or by a delegate convention. If a primary election was decided upon, the party chairman fixed the date and turned

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<sup>1</sup> Acts 1907, ch. 282, secs. 1, 13.

<sup>2</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>3</sup> Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

<sup>4</sup> Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System*

. . . , 21.

<sup>5</sup> Acts 1889, ch. 87, secs. 17, 18, 26.

over the names of candidates, proposed by petition, to the county board of election commissioners which prepared the primary ballot. Returns were made to the party board of primary election commissioners, which declared the nominees of the party; and the chairman certified their names to the county board of election commissioners.<sup>6</sup>

The act of 1907 prescribed a compulsory direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all parties casting a 10 per cent vote as in 1901, and was conducted by bi-partisan precinct election boards paid from county funds.<sup>7</sup>

The present primary law incorporates both the nomination of candidates and the election of precinct committeemen and convention delegates in one primary election held at the same time and place and is mandatory on all political parties casting 10 percent of the total vote for secretary of state at the last preceding general election.<sup>8</sup> The board of primary election commissioners of Allen County supervises primary elections. It prints and distributes the ballots,<sup>9</sup> appoints the precinct election boards upon nomination by the county chairmen of the two major political parties,<sup>10</sup> and arranges the names of the candidates on the ballots.<sup>11</sup> At all primaries the Australian ballot is used, made up of the tickets of the several parties qualified for participation in the election, each party having a separate ticket printed on different colored paper, but uniform in size.<sup>12</sup> Declarations of candidacy are filed with or certified to the clerk of the circuit court, who is a member of the board.<sup>13</sup> All expenses of the primary are

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<sup>6</sup> Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

<sup>7</sup> Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

<sup>8</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-512; Baldwin 7197.

<sup>9</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>10</sup> Acts 1915; Burns 29-505; Baldwin 7191. Acts 1915, 1917; Burns 29-507; Baldwin 7193. Acts 1929, 1933; Burns 29-504; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>11</sup> Acts 1915, 1937; Burns, 1939 suppl., 29-515; Baldwin, 1937 suppl., 7201.

<sup>12</sup> Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

<sup>13</sup> Acts 1915, 1917, 1933, 1935; Burns, 1939 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1939 suppl., 29-516; Baldwin, 1935 suppl., 7202.

paid from public funds.<sup>14</sup> Candidates of the major political parties for all offices—including city, since 1933—except those to be voted upon by all the electors of the state, are nominated at the primary.<sup>15</sup> The statutes governing general elections apply to all primaries.<sup>16</sup>

Papers of primary election matters are filed in the office of the clerk of the circuit court (a member of the board of primary election commissioners); they are usually destroyed after a reasonable time.<sup>17</sup>

#### 408. PRIMARY ELECTIONS, 1908—. 15 vols.

Record of primary elections, showing date of election, names of candidates and offices sought, notice of election, list of voting places, sample ballots, instructions to voters, inspectors' affidavits and oaths, number of votes cast for each candidate, and minutes of meetings of board of primary election commissioners. Also contains: Canvassers Sheets, entry 409. Arr. chron. by dates of elections. No index. Hdw. 50 pp. 20 x 20 x 1. Clk. off.

### XX. COUNTY BOARD OF CANVASSERS

The board of canvassers of Allen County, consisting of the election commissioners, was established by an act of 1905.<sup>1</sup> The board elects its own chairman and the clerk of the circuit court acts as its clerk.<sup>2</sup>

Prior to 1843 the canvass of votes was made by the clerk of the circuit court in the presence of all the election judges who attended from the several townships.<sup>3</sup> The board of canvassers, established in 1843, consisted of the inspectors from the several townships, the clerk of the circuit court acting as clerk. It was continued until 1905.<sup>4</sup>

<sup>14</sup> Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

<sup>15</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1933; Burns 29-1807; Baldwin 11639.

<sup>16</sup> Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

<sup>17</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113.

Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447.

<sup>1</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>2</sup> Acts 1905; Burns 29-1402; Baldwin 7378.

<sup>3</sup> Acts 1817-18 (general), ch. 15, sec. 12. Rev. Laws 1831, ch. 32, sec. 12.

<sup>4</sup> Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33.

The canvass of votes in primary<sup>5</sup> and special<sup>6</sup> elections, including votes cast for city<sup>7</sup> and township officers,<sup>8</sup> is made in the same manner as in the general election.

The board has full power to send for persons and papers and compel witnesses to answer proper questions under oath. The sheriff serves all processes in county elections and obeys all orders of the board.<sup>9</sup>

The members of the board are required to assemble at 6 p. m. on the day of each election in the circuit court room to canvass and estimate the certificates, poll lists, and tally papers returned by the election inspectors;<sup>10</sup> to aggregate and tabulate therefrom the votes of the county; and to declare in a certified statement the candidates elected in the county.<sup>11</sup>

The ballots cast in all primary and general elections, together with all uncast ballots, are sealed in an envelope or bag by the inspector in the presence of the judges and clerks and delivered by him to the clerk of the circuit court who holds them subject to the demand of the judge of any circuit or superior court of the state. In event of suit to contest the election, the judge orders a recount. If no litigation arises, at the end of six months the clerk of the circuit court must destroy the ballots.<sup>12</sup>

The certificates, together with a statement of all votes tabulated, canvass sheets, poll books, and tally papers, are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after a reasonable time.<sup>13</sup>

#### 409. CANVASSERS SHEETS, 1908—. In Primary Elections, entry 408.

Tabulations of votes cast at primary and general elections, showing date of election, names of political party, candidate and office, ward and precinct numbers, and number of votes cast.

<sup>5</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245. Acts 1933; Burns 29-1807; Baldwin 11639.

<sup>6</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

<sup>7</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1803; Baldwin 11635.

<sup>8</sup> Acts 1933; Burns 29-1903; Baldwin 7252.

<sup>9</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>10</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>11</sup> Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

<sup>12</sup> Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1881 (Spec. Sess.); Burns 29-2101; Baldwin

7388.

<sup>13</sup> Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

## XXI. COUNTY BOARD OF ELECTION COMMISSIONERS

The board of election commissioners of Allen County was established by an act of 1889. The board consists of the clerk of the circuit court, and two persons appointed by him, one from each of the major political parties, who have been nominated by the respective chairman of the county committees of the parties.<sup>1</sup> Each of these commissioners is allowed \$300 for his services at any general or special election.<sup>2</sup>

Prior to 1889 there was little centralized county control over elections. The first election's unit was the township, which, as the population increased, was divided into precincts. Such supervision as was necessary beyond the local unit was performed by the various county officers.

At the organization of Allen County in May of 1824, the board of county commissioners laid off the townships,<sup>3</sup> appointed an inspector of elections in each,<sup>4</sup> and the sheriff delivered to the inspectors blank forms of poll books and election returns 10 days before the election.<sup>5</sup> After 1881 the inspectors were elected by the voters of the township;<sup>6</sup> and after 1852 the clerk of the circuit court certified to the sheriff what officers were to be elected. The sheriff posted a copy of this certificate at the usual places of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk<sup>7</sup> or trustee.<sup>8</sup> The board of county commissioners designated the precincts,<sup>9</sup> and furnished supplies (including ballot boxes but not ballots)<sup>10</sup>—after 1881 the auditor furnished printed forms<sup>11</sup> and the commissioners provided ballot boxes.<sup>12</sup> Each voter furnished his own ballot, which might be written or printed.<sup>13</sup> The township trustee

<sup>1</sup> Acts 1839; Burns 29-1002; Baldwin 7109.

<sup>2</sup> Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

<sup>3</sup> Acts 1817-18 (general), ch. 17, sec. 2. Commissioners' Record A:2.

<sup>4</sup> Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 2. Commissioners' Record A:2.

<sup>5</sup> Acts 1817-18 (general), ch. 15, secs. 1, 18.

<sup>6</sup> Rev. Laws 1831, ch. 20, sec. 20.

<sup>7</sup> 1 Rev. Stat. 1852, ch. 31, sec. 2.

<sup>8</sup> Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

<sup>9</sup> 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

<sup>10</sup> 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

<sup>11</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>12</sup> *Ibid.*, sec. 18.

<sup>13</sup> Acts 1817-18 (general), ch. 15, sec. 8. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881

(from 1853 to 1859, the president of the board of township trustees)<sup>14</sup> served ex officio as inspector of elections<sup>15</sup> in the precinct in which he resided,<sup>16</sup> and the board of county commissioners appointed inspectors in all additional precincts.<sup>17</sup> The precinct election board was composed of the inspector, judges, and clerks; the judges were appointed by the inspector and the clerks by the inspector and judges.<sup>18</sup> After 1881 they were chosen from the political parties casting the highest number of votes in the last preceding general election.<sup>19</sup>

Indiana in 1889 was one of the first states to adopt the "Australian ballot"— an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.<sup>20</sup>

The constitution fixes the date of general elections as the Tuesday next after the first Monday in November,<sup>21</sup> and an act of the general assembly provides that they be conducted biennially.<sup>22</sup> The sheriff gives notice to electors by posting at the usual polling places a copy of the certificate from the clerk of the circuit court stating what officers are to be elected.<sup>23</sup> The constitution further provides that all elections by the people must be by ballot,<sup>24</sup> or voting machines<sup>25</sup> which are provided by the board of county commissioners.<sup>26</sup>

The board of county commissioners establishes the pre-

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<sup>14</sup> 1 Rev. Stat. 1852, ch. 31, sec. 3.

<sup>15</sup> Acts 1859; Burns 65-105; Baldwin 16065.

<sup>16</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

<sup>17</sup> 1 Rev. Stat. 1852, ch. 31, sec. 4.

<sup>18</sup> Acts 1917-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4.

<sup>19</sup> Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

<sup>20</sup> Acts 1889, ch. 87, secs. 18, 26.

<sup>21</sup> Const., art. 2, sec. 14 (as amended in 1881).

<sup>22</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>23</sup> Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

<sup>24</sup> Const., art. 2, sec. 13.

<sup>25</sup> Spickerman v. Goddard, 182 Ind. 523; 107 N. E. 2.

<sup>26</sup> Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404;

cinets<sup>27</sup> and provides all polling places and ballot boxes<sup>28</sup> and the auditor furnishes blank poll books and other forms to the inspectors.<sup>29</sup>

The county board of election commissioners supervises general elections;<sup>30</sup> and it prepares and distributes the printed ballots for the election of all officers to be voted for in Allen County, other than those who are to be voted for by all the electors of the state.<sup>31</sup> The state ballots are furnished by the state board of election commissioners.<sup>32</sup> The names of the candidates are arranged on the county ballots by the election commissioners. Candidates nominated by convention or primary by parties casting one-half of one percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of a required number (one-half of one percent of the total vote cast in the last preceding general election in the county) of qualified electors.<sup>33</sup> Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or national government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.<sup>34</sup> The county board also prints and furnishes the ballot label for the voting machines.<sup>35</sup>

The election is conducted by the precinct election boards, consisting of one inspector and two judges, who are appointed

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<sup>27</sup> Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>28</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>29</sup> Acts 1889; Burns 29-808; Baldwin 7097.

<sup>30</sup> Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

<sup>31</sup> Acts 1889; Burns 29-1002; Baldwin 7109.

<sup>32</sup> Acts 1889; Burns 29-1001; Baldwin 7108.

<sup>33</sup> Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121.

<sup>34</sup> Acts 1935; Burns, 1939 suppl., 29-1015; Baldwin, 1935 suppl., 7120-1.

<sup>35</sup> Acts 1901; Burns 29-2410; Baldwin 7358.

by the county board of election commissioners. The township trustee is ex officio inspector in his own precinct and the other inspectors are nominated by the party casting the highest number of votes in the county for secretary of state in the preceding election. The two judges must be of opposite political faith and are nominated by the county chairmen of the two major political parties. Other precinct officials—two election sheriffs, two poll clerks, and if found necessary, two assistant poll clerks—are nominated and appointed in the same manner.<sup>36</sup>

Since 1933 city<sup>37</sup> and township<sup>38</sup> elections are held at the time of the general election, and are under the supervision of the county board of election commissioners,<sup>39</sup> as are all special elections.<sup>40</sup>

The board has full power to send for persons and papers and compel witnesses to answer proper questions under oath. The sheriff serves all processes in county elections and obeys all orders of the board.<sup>41</sup>

Records of all general elections are filed in the office of the clerk of the circuit court (who is a member of the board of election commissioners) for preservation as provided by statute.<sup>42</sup>

#### 410. ELECTION RECORD, 1852—. 25 vols.

Record of general elections, showing date of election, names and political affiliations of candidates, sample ballots, instructions to voters, notice of election, inspectors' affidavits and oaths, number of votes cast for each candidate, and minutes of meetings of board of election commissioners. Arr. chron. by dates of elections. No index. Hdw. 50 pp. 20 x 20 x 1. Clk. off.

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<sup>36</sup> Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>37</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1806; Baldwin 11638.

<sup>38</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

<sup>39</sup> Acts 1933; Burns 29-1803; Baldwin 11635.

<sup>40</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

<sup>41</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>42</sup> Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447.

411. RECORD OF APPOINTMENT OF ELECTION SHERIFFS, 1890-1916.  
3 vols.

Record of deputy sheriffs appointed to serve at precinct voting places, showing dates of appointment and election, name of deputy, ward and precinct numbers, and oath administered to deputy. Arr. chron. by dates of elections. No index. 325 pp. 14 x 18 x 1. 2 vols., 1890-1906, sher. off.; 1 vol., 1907-16, attic stor. rm.

XXII. COUNTY BOARD OF EDUCATION

The board of education, as established by an act of 1873 and amended in 1877, consists of the county superintendent of schools, the township trustees, and the chairman of the school trustees of each city and town of the county. Before 1877 all the school trustees of each town and township were also included as members of the board.<sup>1</sup>

Semiannual meetings are held at the office of the county superintendent on the first day of May and September. A majority of the board members constitute a quorum. The county superintendent presides at the meetings and he casts his vote in the same manner as the other members.<sup>2</sup>

The board acts in an advisory capacity by determining and considering the wants and needs of the schools; it provides for the maintenance of school property and purchase of furniture, books, maps, charts, and other supplies.<sup>3</sup> The board may purchase text books from publishers and sell them to pupils at cost,<sup>4</sup> or rent them to pupils at not to exceed 25 percent of the retail price.<sup>5</sup>

412. MINUTE RECORD [Board of Education], 1877-1917, 1931-  
2 vols.

Minutes of meetings and proceedings of board of education, showing date and place of meeting, names of members present, business discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 200 pp. 15 x 12 x 2. 1 vol., 1877-1917, C. C., aud. off.; 1 vol., 1931-, residence of J. J. Gerig, Grabill.

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<sup>1</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983.

<sup>2</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983.

<sup>3</sup> *Ibid.*

<sup>4</sup> Acts 1921; Burns 28-614; Baldwin 6692.

<sup>5</sup> Acts 1935; Burns, 1939 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

## XXIII. COUNTY SUPERINTENDENT OF SCHOOLS

The superintendent of schools of Allen County is elected by the township trustees for a four-year term, under the authority of an act of 1899 and later amendments, which increased his powers as defined in an act of 1873.<sup>1</sup> No person is eligible to the office of superintendent of schools who has not had five years' successful experience as a teacher and who does not hold a first or second grade superintendent's license.<sup>2</sup> The superintendent must take an oath to perform his duties according to law and execute a bond of \$5,000, approved by the auditor.<sup>3</sup> The statutory salary of the superintendent of the Allen County schools is \$2,880,<sup>4</sup> but this amount may be increased by a vote of a majority of the township trustees.<sup>5</sup>

The board of commissioners, by an act of 1853, appointed one to three school examiners for the county for the purpose of examining and licensing school teachers;<sup>6</sup> by an act of 1861, one school examiner.<sup>7</sup> The title of school examiner was changed to superintendent of schools and the power of appointment was transferred to the township trustees, by an act of 1873. Although his powers had been increasing gradually, this act made him more responsible to the state superintendent of public instruction and gave him advisory supervision of the schools of the county.<sup>8</sup>

The superintendent exercises general supervision of the schools outside the incorporated cities and towns of Allen County.<sup>9</sup> His duties are to visit the schools in session for the purpose of increasing their usefulness and raising their standards as uniformly as practicable; to carry out orders of the state board of education and the state superintendent of public instruction;<sup>10</sup> to nominate an attendance officer to be

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<sup>1</sup> Acts 1873, ch. 25, secs. 3, 4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

<sup>2</sup> Acts 1935; Burns, 1935 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

<sup>3</sup> Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

<sup>4</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>5</sup> Acts 1933, 1939; Burns, 1939 suppl., 49-1014; Baldwin, 1939 suppl., 7544.

<sup>6</sup> Acts 1853, ch. 106, sec. 6.

<sup>7</sup> Acts 1861, ch. 61, secs. 32, 33.

<sup>8</sup> Acts 1873, ch. 25, sec. 2.

<sup>9</sup> Acts 1899; Burns 28-705; Baldwin 5940. Acts 1873; Burns 28-1401; Baldwin 5973.

<sup>10</sup> Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

appointed by the board of education;<sup>11</sup> to conduct county teachers' institutes<sup>12</sup> and conduct and preside over township institutes;<sup>13</sup> to report as to teachers' preparation, experience, and license before they are employed.<sup>14</sup> It is his duty to examine and verify certificates, presented by township trustees, for aid from the state-common-school-relief fund.<sup>15</sup> He is ex officio member of the county board of education and presides at its meetings.<sup>16</sup>

The superintendent keeps a complete record of licenses held by all regular school teachers, date of employment, their success grades, and the monthly or annual salary of each.<sup>17</sup> He makes an annual report to the state superintendent of public instruction concerning the enumeration of school children in county, townships, and towns or cities. He also reports statistics and other information relative to the condition of the schools, schoolhouses, and general progress of education.<sup>18</sup>

#### REPORTS

##### 413. DISTRIBUTION OF SCHOOL REVENUE, 1885-. 1 f. b.

Superintendent's copies of auditor's semiannual reports of distribution of school revenue, showing date of report, name of township, city or town, enumeration and attendance of scholars, total amount of revenue available for distribution, and amount apportioned to each school corporation. Arr. chron. by dates of reports. No index. 11 x 5 x 14. Supt. off.

##### 414. FINANCIAL AND STATISTICAL REPORT, 1891-. 1 f. b.

Copies of annual financial and statistical reports of county superintendent of schools to state superintendent of public instruction, showing names of townships, amount and nature of receipt or expenditure, date of report, and balances of receipts, expenditures, assets or liabilities. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Supt. off.

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<sup>11</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

<sup>12</sup> Acts 1907, 1929, 1933; Burns 28-4402; Baldwin 6725.

<sup>13</sup> Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942.

<sup>14</sup> Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

<sup>15</sup> Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

<sup>16</sup> Acts 1873, 1877; Burns 28-501; Baldwin 5983.

<sup>17</sup> Acts 1923; Burns 28-4217; Baldwin 5928.

<sup>18</sup> Acts 1865, 1873, 1895; Burns 28-714; Baldwin 5948.

## ENUMERATIONS

415. CENSUS ENUMERATION FIELD SHEETS, 1913-. 13 f.b. Enumeration of children in the several townships, showing name, age and grade of pupil, and names of parents, guardians, township and trustee. Arr. by twps. No index. Hdw. 11 x 5 x 14. Supt. off.

416. REPORT OF COUNTY SUPERINTENDENT TO STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, 1898-1932. 1 f. b. Reports of enumeration of children between the ages of six and twenty-one years to establish basis for apportionment of school revenue, showing dates of enumeration and report, name, age and color of child, gain or loss in attendance from previous reports, and number of children regularly employed or disabled. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Supt. off.

For subsequent records, see entry 422.

## TEACHERS

417. TEACHERS LICENSE CERTIFICATES, RECORD OF, 1923-. 4 f. d. Register of qualifications of active and inactive teachers who are or were employed in county schools, showing date and kind of license, and name, address, experience, education and qualifications of teacher. Arr. alph. by names of teachers. No index. Hdw. and typed. 7 x 10 x 15. Supt. off..

418. TEACHERS APPLICATIONS, 1928-. 1 f. d. Original applications of persons applying for teachers' positions, showing date of application, name; age, address, education, qualifications and experience of applicant, and term and type of license. Arr. alph. by qualified subjects. No index. Hdw. and typed. 13 x 8 x 25. Supt. off.

419. SUCCESS GRADES, 1930-. 1 f. d. Card record of teachers' success grades, showing date of report, names of teacher, school and township, ratings scored in personality, achievement, management, preparation and government, and general characteristics of teacher. Arr. alph. by names of teachers. No index. Hdw. 7 x 10 x 15. Supt. off.

## PUPILS

420. COMMENCEMENT REPORTS, 1915-. 1 f. b. Record of 8th grade township graduation exercises, showing

date of commencement, name of township or school, number of graduates, and statement of expense incurred. Arr. chron. by dates of commencements. No index. Typed. 11 x 5 x 14. Supt. off.

421. RECORD OF HIGH SCHOOL PUPILS, 1924-. 1 f. d.

File card record of high school students now attending township schools, showing names of student, township, school and parent or guardian, scholastic record, and date of graduation. Arr. alph. by names of students. No index. Hdw. 11 x 13 x 26. Supt. off.

422. AGGREGATE ATTENDANCE, 1933-. 1 f. d.

Annual reports of aggregate attendance of pupils to establish basis for apportionment of school revenue, showing date of report, names of township or school corporation, term of school, number of pupils enrolled, and aggregate attendance. Arr. by twps. or school corporations, thereunder chron. by dates of reports. No index. Hdw. 11 x 13 x 26. Supt. off.

For prior records, see entry 416.

## XXIV. COUNTY HEALTH OFFICER

The health officer of Allen County, who is appointed by the board of commissioners for a four-year term, under the authority of an act of 1935, effective January 1, 1938, is a part-time official. He must be a regularly licensed physician, suitably trained in sanitary science and hygiene, with qualifications satisfactory to the state board of health. Should the state board of health fail to approve the nomination of the person recommended, the board of commissioners must make another nomination at once.<sup>1</sup> His salary is three cents per capita, based on the population of the county less the population of any city having a health officer, except that in no case shall he receive less than \$200 nor more than \$1,800 per year.<sup>2</sup>

From 1881 to 1909 the board of commissioners constituted the county board of health ex officio and elected annually a secretary, who was a physician and served as health officer. The statute governing these matters provided that the secretary must render medical and surgical services to inmates of the

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<sup>1</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., §404-1. Commissioners' Record, 21:235.

<sup>2</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., §404-1.

county jail and other services required by the board of commissioners.<sup>3</sup> An act of 1891 enlarged the duties of the board and the secretary was its executive officer.<sup>4</sup> In 1909 the county board of health was abolished and the office of health commissioner was established, which continued until superseded by the health officer in 1938. The board of commissioners elected as health commissioner a licensed physician.<sup>5</sup>

The health officer protects and supervises the general health and sanitation of the county outside of incorporated cities.<sup>6</sup> He enforces the health laws of the state and the rules and regulations of the state board of health;<sup>7</sup> oversees inspection of food and drugs, and endeavors to promote sanitary conditions for the sale of food;<sup>8</sup> condemns buildings unfit for human habitation;<sup>9</sup> and as an aid to the prevention of the pollution of water courses, he sends samples of water to the state laboratory for inspection.<sup>10</sup> He makes inspections of all public buildings and institutions and of private property; investigates the presence, source, and cause of disease, establishes quarantine; and if necessary, closes schools and churches and forbids public gatherings in order to prevent epidemics; he protects the public health in all reasonable and necessary ways.<sup>11</sup>

The health officer makes weekly reports to the state board of health summarizing all cases of contagious diseases. The United States Public Health Service provides franked report blanks for this purpose, and they must be sent in even if there are no cases to report, the blank being marked "no cases reported."<sup>12</sup>

The health officer collects records, reports the vital statistics of the county, issues burial permits,<sup>13</sup> and keeps

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<sup>3</sup> Acts 1881, ch. 19, sec. 8.

<sup>4</sup> Acts 1891, ch. 15, sec. 8.

<sup>5</sup> *Ibid.*, secs. 8, 10. Acts 1909, ch. 144, secs. 4, 6.

<sup>6</sup> Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

<sup>7</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405.

<sup>8</sup> Acts 1909; Burns 35-1009; Baldwin 8512. Acts 1907; Burns 35-1207; Baldwin 8476.

<sup>9</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>10</sup> Acts 1909; Burns 35-201; Baldwin 8410. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>11</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405.

<sup>12</sup> Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Rule 6 of State Board of Health.

<sup>13</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

full and permanent records of the public health work and of his reports. He makes monthly reports of his work to the state board of health.<sup>14</sup>

#### ACTIVITIES AND REPORTS

##### 423. DAILY RECORD BOOK, 1918-. 3 vols.

Record of daily activities of health officer, including reports to state board of health of births, deaths, marriages and infectious diseases, showing date and nature of report, total number of births, deaths, marriages, and nature and number of infectious diseases. Arr. chron. by dates of reports. No index. Hdw. 250 pp. 11 x 9 x 1. Hlth. offr. off., 1222 E. State St., Fort Wayne.

#### VITAL STATISTICS

##### 424. BIRTH RECORD, 1887-Mar. 1890, Sept. 1893-. 15 vols.

Register of birth returns submitted by attending physician, showing registry number, date, time and place of birth, name of attending physician, name, sex and race of child, number in family, names, ages, occupations and birthplaces of parents. Arr. chron. by dates of returns. No index. 160 pp. 16 x 10 x 1. Hlth. offr. off., 1222 E. State St., Fort Wayne.

##### 425. RECORD OF MARRIAGES, 1894-. 3 vols.

Record of marriage returns reported by clerk to health officer, showing dates of marriage and return, names of bride, groom, parents, witnesses and person officiating, and place of marriage. Arr. chron. by dates of returns. No index. Hdw. 260 pp. 16 x 12 x 1½. Hlth. offr. off., 1222 E. State St., Fort Wayne.

For other marriage records, see entries 48-51.

##### 426. CONTAGIOUS DISEASES, 1907-. 3 vols.

Record of contagious and infectious diseases, showing dates of report, quarantine and release, names of patient, family, informant and physician, age, sex, race and address of patient, and nature and duration of disease. Arr. chron. by dates of reports. No index. Hdw. 200 pp. 16 x 12 x 1. Hlth. offr. off., 1222 E. State St., Fort Wayne.

##### 427. DEATH RECORD, 1894-. 5 vols.

Record of death returns, showing dates and places of death and burial, names of deceased, family, physician and mortician.

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<sup>14</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8465.

cause of death, age, sex and race of deceased, and birthplaces of deceased and parents. Arr. chron. by dates of deaths. No index. Hdw. 460 pp. 16 x 12 x 3. Hlth. offr. off., 1222 E. State St., Fort Wayne.

## XXV. PUBLIC HEALTH NURSES

Allen County has five full-time health nurses appointed by the county commissioners (subject to approval by state board of health). They are legally qualified and have been trained in sanitary science and public health.<sup>1</sup> The expenses of the office are paid from county and state funds.

These nurses devote their entire time in co-operation with the part-time county health officer, school officials, and the county medical society. They perform such duties as may be prescribed by the state board of health.<sup>2</sup>

The county nurse's office has been located at 218 Central Building, Fort Wayne, and the records are kept there. A quarterly report is made to the state board of health.

### 428. NURSING SERVICE, OPEN AND CLOSED HISTORIES, 1920- 8 f. d.

Record of nursing services rendered to patients, showing case number, name, age, color, sex, address, marital status and occupations of patient, names, birthplaces and occupations of parents, names of attending physician, nurse and person reporting, date of report, brief history of case, diagnosis of disease, habits, health and social circumstances of patient, date and record of service rendered, and amount of fees collected, if any. Arr. num. by case nos. No index, 1920-28; for index, 1929-, see entry 429.

### 429. NURSING SERVICE INDEX, 1929-. 2 f. d.

Card index to Nursing Service, Open and Closed Histories, entry 428, showing case number, name of patient, name and address of parent or guardian, diagnosis of case, and dates admitted and discharged. Arr. alph. by names of patients. Hdw. 5½ x 13½ x 27. Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

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<sup>1</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-119, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-2, 8404-6.

<sup>2</sup> Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

## 430. PARENTS REQUEST TO NURSE, 1921-. 1 f.d.

Parents' or guardians' requests to nurse for dental treatment of children, showing date of request, names of child and parents or guardian, and statement of financial ability to pay for service. Arr. alph. by names of children. No index.  $6\frac{1}{2} \times 9 \times 14$ . Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## 431. OUT OF SCHOOL [School Health Record], 1930-. 15 f.d.

Record of physicians' examinations of grade school pupils, showing date of examination, name, address, sex, color and birth date of pupil, name of school attending, names and occupations of parents or guardian, nature of disease, statement of any defects found, corrected or under treatment, food habits and personal hygiene of patient, number of visits and interviews, and parental co-operation. Arr. chron. by years, thereunder alph. by names of pupils. No index. Hdw.  $6\frac{1}{2} \times 9 \times 14$ . Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## 432. NURSING SERVICE BOARD OF HEALTH CARDS, 1931-. 1 f.d.

Nurses' reports to county health officer of contagious and infectious diseases, showing dates of report and onset of disease, name, age, sex and color of patient, names of disease, county, township and city or town, householder's address, place of patient's employment or school attending, and name and address of nurse reporting. Arr. alph. by names of patients. No index. Hdw.  $5\frac{1}{2} \times 13\frac{1}{2} \times 27$ . Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## 433. DENTAL FILE, CLOSED CASES, 1921-. 3 f.d.

Record of closed cases of dental service rendered school children, showing name and address of patient, diagram of defective teeth, estimate of cost, date and nature of treatment, amount of cost, schedule of payments, and balance. Arr. alph. by names of patients. No index. Hdw.  $6\frac{1}{2} \times 9 \times 14$ . Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## 434. JUNIOR DENTAL CLINIC, COUNTY OPEN CASES, 1931-. 1 f.d.

Record of dental service rendered school children, showing same information as entry 433. Arr. alph. by names of patients. No index.  $5\frac{1}{2} \times 6\frac{1}{2} \times 4$ . Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## 435. ADULT DENTAL CASES, 1929-34. 1 f.d.

Record of dental services rendered adults, showing case number, name, sex, color, age, occupation, date and place of birth.

marital status and economic status of patient, diagnosis of case, name of doctor, amount of insurance carried by patient, name of insurance company, policy number, date of issue, dates of admittance, treatment and discharge, number of visits, and amount of charges. Arr. alph. by names of patients. No index. Hdw.  $6\frac{1}{2}$  x 9 x 14. Rm. 216, Central Bldg., Wayne and Harrison Sts., Fort Wayne.

## XXVI. COUNTY DEPARTMENT OF PUBLIC WELFARE

The department of public welfare of Allen County was created in 1936. Its affairs are administered by the county board of public welfare and a county director of public welfare.<sup>1</sup> The department is a legal entity, and its official name is "The County Department of Public Welfare of Allen County."<sup>2</sup> It may be sued in that name.

Before the present system of welfare was organized, the county administered aid to the poor and needy through discretionary powers granted the county. County asylums were established at an early date to care for those who were without homes and means to care for themselves.<sup>3</sup> In 1857 the county boards having authority to spend county funds were directed to give aid to needy blind and infirm poor.<sup>4</sup> In 1901 the board of children's guardians was established to provide adequate care and supervision of neglected and dependent children.<sup>5</sup> The board of charities and corrections, organized in 1899, inspected and advised changes in the county institutions;<sup>6</sup> and a system of old-age pensions was enacted in 1933.<sup>7</sup> These previous organizations were incorporated in the present welfare law.<sup>8</sup>

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<sup>1</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

<sup>2</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122; Baldwin, 1937 suppl., 14078-23.

<sup>3</sup> 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1901; Burns 52-104; Baldwin 13361.

<sup>4</sup> Acts 1857; Burns 26-1202; Baldwin 5295.

<sup>5</sup> Acts 1901, 1923, 1927; Burns 22-2801, 22-2802; Baldwin 5684, 5685.

<sup>6</sup> Acts 1899; Burns 22-2901 to 22-2903; Baldwin 4116 to 4118.

<sup>7</sup> Acts 1933; Burns 52-301; Baldwin 13407.

<sup>8</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

The county board of public welfare consists of five members. These members have been residents of the county for at least two years prior to appointment, and they must have a definite and recognized interest in public welfare. The judge of the circuit court makes the appointments. At least two of the board members must be women, and not more than three may belong to one political party. The first members were appointed: One for one year, two for two years, and two for four years; thereafter the terms will be for four years. Regular meetings are held once a month; the August meeting is known as the annual meeting, and others may be held pursuant to call.<sup>9</sup>

The executive and administrative work is carried on by the director of public welfare. He is appointed by the county board solely on the basis of merit from eligible lists established by the state department. He must have resided in the county at least two years before appointment unless no qualified person is available. He must give bond, payable to the state, approved by the judge of the circuit court, and filed in the office of the clerk, conditioned for faithful discharge of his official duties.<sup>10</sup>

The director appoints, with the approval of the board, the assistants in the department from eligible lists compiled by the state department; he determines the salaries of these assistants.<sup>11</sup>

There are four divisions of duties of the department.<sup>12</sup> The division of assistance administers old-age assistance, aid to dependent children in their own homes, aid to blind, and supervision of the industrial board for the blind.<sup>13</sup> The children's division takes care of orphaned children, and children to be sent to the deaf, blind, or correctional schools.<sup>14</sup> The division of medical care is charged with the care of inmates in institutions for feeble-minded, insane, epileptic, and tuberculous persons.<sup>15</sup> The division of corrections keeps the records of all persons placed in penal and correctional institutions.<sup>16</sup> The department also administers provisions

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<sup>9</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

<sup>10</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

<sup>11</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

<sup>12</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1107; Baldwin, 1937 suppl., 14078-8.

<sup>13</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1108; Baldwin, 1937 suppl., 14078-9.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

and benefits of the federal "Social Security Act" of August 14, 1935.<sup>17</sup> The county department is at all times responsible to the state department.<sup>18</sup>

Expenditures for assistance and administration of the department are paid from the county welfare fund raised by a separate tax levy,<sup>19</sup> to which are added such repayments as may be made under legal liability by recipients, their parents, children or other persons liable for their support.<sup>20</sup> Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.<sup>21</sup> The county receives funds from the state, and a part of any federal funds granted to the state,<sup>22</sup> to be paid into the county welfare fund. All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are not so subject, but are determined by the department and approved by the director.<sup>23</sup> The county board of public welfare may accept gifts, or bequests of personal property or income from real estate for the homes or support of dependent children.<sup>24</sup>

The auditor keeps the records relating to the county welfare fund and its financial transactions.<sup>25</sup> The department keeps such records and accounts relating to assistance as the state department prescribes.<sup>26</sup> All records, except applications for assistance and for modification and revocation of awards, are confidential.<sup>27</sup>

#### PROCEEDINGS OF THE BOARD

#### 436. MINUTES OF COUNTY BOARD OF PUBLIC WELFARE, 1936- 1 vol.

Minutes of meetings of board of public welfare, showing date

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- <sup>17</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1113; Baldwin, 1937 suppl., 14078-14.
- <sup>18</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21.
- <sup>19</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1301; Baldwin, 1937 suppl., 14078-98.
- <sup>20</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.
- <sup>21</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.
- <sup>22</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1219, 52-1249, 52-1254; Baldwin, 1937 suppl., 14078-50, 14078-80, 14078-85. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24 a.
- <sup>23</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.
- <sup>24</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122; Baldwin, 1937 suppl., 14078-23.
- <sup>25</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.
- <sup>26</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1260; Baldwin, 1937 suppl., 14078-91.
- <sup>27</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

and place of meeting, names of members present, nature of business transacted, and action taken. Arr. chron. by dates of meetings. No index. Typed. 360 pp. 14 x 19 x 1. Pub. welf. off.

437. RECOMMENDATIONS OF COUNTY DIRECTOR, 1936-. 2 vols. Record of recommendations of county director and action of county board of public welfare as to rejections, awards, changes, modifications, revocations or cancellations of assistance, showing code, recommendation, sheet and application numbers, name of applicant or recipient, amount of award recommended by director, nature of action of welfare board, and oath of welfare director. Arr. num. by recommendation nos. No index. Typed. 200 pp. 12 x 15 x 1. Pub. welf. off.

#### OLD-AGE ASSISTANCE

(See also entries 145, 146, 364)

438. OLD AGE ASSISTANCE [Card File Index], 1936-. 1 f. d. Card index to Old Age [Active], entry 439, and Old Age [Inactive], entry 440, showing name and address of recipient, dates of application and grant or denial, and serial and code numbers. Arr. alph. by names of recipients. Typed. 11 x 5 x 27. Pub. welf. off.

439. OLD AGE [Active], 1936-. 6 f. d. Papers pertaining to active old-age assistance cases, including visitors' verification reports, applications, certificates of award, and case histories, showing date of instrument, application code and serial numbers, name of applicant, and amount of award. Arr. num. by application serial nos. For index, see entry 438. Hdw. and typed. 11 x 16 x 27. Pub. welf. off.

440. OLD AGE [Inactive], 1936-. 3 f. d. Papers pertaining to inactive old-age cases, including applications, visitors' verification reports, withdrawals, certificates of awards, and case histories, showing date of instrument, application code and serial numbers, name of recipient, and amount of award. Arr. num. by application serial nos. For index, see entry 438. Hdw. and typed. 11 x 16 x 27. Pub. welf. off.

441. RECORD OF ASSISTANCE GIVEN AGED PERSONS, 1936-. 2 vols.

Record of awards granted and payments made for old-age assistance, showing date of award, name and address of recipient, application code and serial and certificate numbers, and date, amount and number of warrant. Arr. num. by serial nos. No index. Typed. 1000 pp. 9 x 15 x 3. Pub. welf. off.

442. CERTIFICATION OF RECORD OF ASSISTANCE GIVEN AGED PERSONS, TRANSFERRED TO ALLEN COUNTY, 1936-. 1 vol. (no labelling).

Certified copies of record of assistance given aged persons transferred from other counties, showing name of recipient, county from which transferred, application code and serial numbers, date and amount of last payment, and total amount of all previous payments. Arr. num. by serial nos. No index. Typed. 50 pp. 10 x 15 x 1/2. Pub. welf. off.

443. CERTIFICATION OF RECORD OF ASSISTANCE GIVEN AGED PERSONS, TRANSFERRED FROM ALLEN COUNTY, 1936-. 1 vol.

Certified copies of records of assistance given aged persons transferred from Allen County to foreign counties, showing name and address of recipient, application code and serial number, date and amount of last payment, and total assistance granted as certified by director of public welfare. Arr. num. by serial nos. No index. Typed. 50 pp. 10 x 15 x 1/2. Pub. welf. off.

444. ALLOWANCE SCHEDULE FOR OLD AGE ASSISTANCE, 1936-. 1 vol.

Schedules of allowances for old-age assistance, showing date of schedule, name and address of payee, application code and serial and warrant numbers, amount of allowance, appropriation number, and verification by director of public welfare and auditor. Arr. chron. by dates of schedules. No index. Typed. 200 pp. 12 x 18 x 1. Pub. welf. off.

445. WITHDRAWAL RECORD OF ASSISTANCE GIVEN AGED PERSONS, 1934-. 2 vols.

Register of withdrawals of assistance granted aged persons, showing name and address of recipient, dates of granting and withdrawal of award, application code and serial and certificate numbers, amount of monthly award, and reason for withdrawal of assistance. Arr. num. by serial nos. No index. Typed. 500 pp. 9 x 15 x 2. Pub. welf. off.

#### BLIND ASSISTANCE

446. BLIND ASSISTANCE, 1936-. 1 f. d.

Papers pertaining to active blind assistance cases, including applications, physician's and statistical reports, and reports on applicants, showing names of applicant and physician, date and amount of payment, and application code and serial numbers. Arr. num. by application serial nos. For index, see entry 447. Hdw. and typed. 11 x 16 x 27. Pub. welf. off.

447. CARD FILE INDEX, BLIND ASSISTANCE, 1936-. 1 f. d. Card index to Blind Assistance, entry 446, showing name and address of applicant, dates of application, grant and denial or withdrawal of award, and application code and serial numbers. Arr. alph. by names of applicants. Typed. 11 x 5 x 27. Pub. welf. off.

DEPENDENT CHILDREN ASSISTANCE

(See also entry 363)

448. MINUTES OF BOARD OF CHILDREN'S GUARDIANS, 1898-Aug. 4, 1909, Sept. 12, 1916-May 11, 1936. 5 vols. Minutes of proceedings of board of children's guardians, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. 1898-Aug. 4, 1909, hdw.; Sept. 12, 1916-May 11, 1936, typed. 150 pp. 12 x 8½ x 1. Pub. welf. off.

449. CLOSED CASES [Dependent Children], 1909-. 8 f. d. Applications and papers pertaining to assistance granted dependent children, showing date of application, name of child, application code and serial numbers, family history, data from responsible relatives, certificates of award, change of award, withdrawal or rejection of assistance, information from hospitals, notice to persons liable for support, petitions and orders for dismissal of guardianships, recommendation of director, and amount of award. Arr. alph. by names of children. No index. Typed. 11 x 16 x 27. Pub. welf. off.

450. CASES OF NEGLECTED AND DEPENDENT CHILDREN, 1911-. 3 f. d.

Papers pertaining to neglected and dependent children, showing dates of petition, subpoena, writ and court order, names of child and parents, family record of parents, and personal and medical record of child. Arr. alph. by names of parents. No index. Typed. 11 x 16 x 27. Pub. welf. off.

451. PETITIONS OF BOARD OF CHILDRENS GUARDIANS, 1918-. 1 f. d.

Petitions to juvenile court to obtain custody of neglected children, court subpoenas, writs and parents' consent, showing dates of petition, subpoena, writ and consent, names of parents and children, and complete history of case. Arr. chron. by dates of petitions. No index. Typed. 11 x 13 x 27. Pub. welf. off.

452. APPLICATIONS TO BOARD OF CHILDREN'S GUARDIANS, 1924-  
May 16, 1936. 1 f.d.

Parents' applications for assistance in supporting needy and dependent children, showing date of application, names of parents and children, family history and financial circumstances of family, specific reason for assistance needed, and disposition. Arr. alph. by names of children. No index. Typed. 11 x 16 x 27. Pub. welf. off.

453. REGISTER OF FOSTER HOME APPLICATIONS, 1917-. 1 vol. Register of foster home applications to board of children's guardians and department of public welfare, showing date, type, code and serial numbers of application, age, sex and number of children applied for, name and address of foster family, and date of approval or disapproval. Arr. num. by serial nos. No index. Typed. 50 pp. 9 x 15 x 1/2. Pub. welf. off.

454. REGISTER OF DEPENDENT CHILDREN IN FOSTER CARE UNDER  
SUPERVISION, 1916-. 1 vol.

Record of dependent children in foster care or under supervision, showing application code and serial numbers, names of child, foster parents and investigator, and date of acceptance or rejection. Arr. num. by serial nos. No index, 1916-17; for index, 1918-, see entry 456. Typed. 150 pp. 9 x 15 x 1. Pub. welf. off.

455. FOSTER HOMES, 1924-. 3 f.d.

Applications and papers pertaining to placement of children in foster homes, showing dates of application and placement, names of child, parents and foster home, application code and serial number, and report of admission, transfer and discharge. Arr. num. by serial nos. For index, see entry 456. Typed. 11 x 16 x 27. Pub. welf. off.

456. INDEX TO CHILDREN IN FOSTER HOMES, 1918-. 1 f.d.

Card index to Register of Dependent Children in Foster Care Under Supervision, entry 454, Foster Homes, entry 455, showing names of child and person in loco parentis, case number, date of placement, and age and sex of child. Arr. alph. by names of children. Typed. 5 1/2 x 16 x 27. Pub. welf. off.

457. FREE HOMES, 1918-. 3 f.d.

Papers pertaining to placement of dependent children in private homes, showing case number, dates of placement and discharge, names of child, parents and private home, family history of parents, personal and medical record of child, and report of admission, transfer and discharge. Arr. num. by case nos. For index, see entry 458. Typed. 11 x 16 x 27. Pub. welf. off.

## 458. INDEX TO FREE HOMES, 1918-. 1 f. d.

Card index to Free Homes, entry 457, showing names of ward, parents and home, date of placement, and case number. Arr. alph. by names of wards. Typed.  $5\frac{1}{2} \times 16 \times 27$ . Pub. welf. off.

## 459. ALLEN COUNTY CHILDREN'S HOME, 1924-. 3 f. d.

Papers pertaining to dependent children placed in Allen County Children's Home, showing family record of parents, personal and medical record of child, report of admission, transfer and discharge of child, dates of admission, transfer and discharge, name, age, sex and color of child, and names of parents. Arr. alph. by names of children. For index, see entry 460. Typed.  $11 \times 16 \times 27$ . Pub. welf. off.

## 460. CARD INDEX TO WARDS IN CHILDREN'S HOME, 1924-. 1 f. d.

Index to Allen County Children's Home, entry 459, showing date of placement, names of ward and parents, and case number. Arr. alph. by names of wards. Typed.  $5\frac{1}{2} \times 16 \times 27$ . Pub. welf. off.

## 461. WARDS IN BOARDING HOMES, 1924-. 3 f. d.

Papers pertaining to dependent children placed in boarding homes, showing family record of parents, personal and medical record of child, report of admission, transfer and discharge of child, dates of admission, transfer and discharge, name and age of child, names of parents, and name and location of boarding home. Arr. alph. by names of children. For index, see entry 462. Typed.  $11 \times 16 \times 27$ . Pub. welf. off.

## 462. CARD INDEX TO WARDS IN BOARDING HOMES, 1924-. 1 f. d.

Index to Wards in Boarding Homes, entry 461, showing date of placement, names of ward and parents, case number, and name and location of home. Arr. alph. by names of wards. Typed.  $5\frac{1}{2} \times 16 \times 27$ . Pub. welf. off.

## 463. WARDS IN OTHER INSTITUTIONS, 1924-. 3 f. d.

Papers pertaining to dependent children placed in various institutions, showing family record of parents, personal and medical record of child, reports of admission, transfer and discharge, name, age, color and sex of child, names of parents and institution, and dates of admission, transfer and discharge. Arr. alph. by names of children. For index, see entry 464. Typed.  $11 \times 16 \times 27$ . Pub. welf. off.

## 464. CARD INDEX TO WARDS IN OTHER INSTITUTIONS, 1924-. 1 f. d.

Index to Wards in Other Institutions, entry 463, showing date of placement, case number, and names of ward, family and institution. Arr. alph. by names of wards. Typed.  $5\frac{1}{2} \times 16 \times 27$ . Pub. welf. off.

## 465. RECORD OF BIRTH DATES, 1936-. 1 f. d.

Card reference to birth dates of dependent children, showing name and birth date of dependent child, name and address of parents, and date child will become 16 years of age. Arr. alph. by names of dependent children. No index. Typed. 11 x 5 x 27. Pub. welf. off.

## 466. INDIVIDUAL CASES OF ASSISTANCE TO DEPENDENT CHILDREN, 1936-. 2 f. d.

Applications for assistance for dependent children, showing date of application, name of child, application code and serial numbers, family history, data from responsible relatives, certificates of award, change of award, withdrawal or rejection of assistance, information from hospitals, notice to persons liable for support, petitions and orders for dismissal of guardianships, recommendation of director, and amount of award. Arr. num. by serial nos. No index. Typed. 11 x 16 x 27. Pub. welf. off.

## 467. INDIVIDUAL CASES OF DEPENDENT CHILDREN IN HOMES, 1936-. 3 f. d.

Applications for placement of dependent children in homes, showing dates of application and placement, names of children and parents, family history, personal and medical record of child, and report of investigator. Arr. alph. by names of parents. No index. Typed. 11 x 16 x 27. Pub. welf. off.

## 468. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN [Active], 1936-. 1 vol.

Record of assistance given dependent children, showing name and birth date of child, name and address of parent or person in loco parentis, application code and serial numbers, amount eligible for federal aid, amount of award, and date, number and amount of warrant for each payment. Arr. num. by application serial nos. No index. Typed. 500 pp. 9 x 15 x 1. Pub. welf. off.

## 469. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN [Inactive], 1936-. 1 vol.

Record of inactive cases of assistance given dependent children, showing name and birth date of child, name and address of parent or person in loco parentis, application code and serial numbers, amount eligible for federal aid, amount of award, date, number and amount of warrant for each payment, and date of withdrawal of award. Arr. num. by application serial nos. No index. Typed. 100 pp. 9 x 15 x 1. Pub. welf. off.

470. CONTINUATION SHEETS—ALLOWANCE SCHEDULE FOR DEPENDENT CHILDREN, 1936—. 1 vol.

Carbon copies of monthly allowance schedules for assistance to dependent children in custody of relatives and attached continuation sheets, showing dates of schedule, warrant and affidavit, name, address, number of children and application number of payee, amounts of allowance eligible and not eligible for federal aid and total, warrant and appropriation numbers, and affidavits of claim verification by director and certification of claim to state department of public welfare by director and auditor. Arr. chron. by dates of schedules. No index. 200 pp. 12 x 18 x 1. Pub. welf. off.

CRIPPLED CHILDREN

471. CRIPPLED CHILDREN, 1937—. 1 f.d.

Applications for assistance for crippled children, showing date of application, application code and serial numbers, names of parents and child, investigator's report, data from responsible relatives, recommendation for examination, physician's report, report of medical social worker, notice for admission to hospital or other disposition, notice of date for admission, authorization for transportation, and dates of admission and discharge. Arr. num. by serial nos. For index, see entry 472. Typed. 11 x 13 x 27. Pub. welf. off.

472. INDEX TO CRIPPLED CHILDREN, 1937—. 1 f.d.

Card index to Crippled Children, entry 471, showing name of child, case number, and date of acceptance or rejection of application. Arr. alph. by names of children. Typed. 5 x 11 x 27. Pub. welf. off.

473. REGISTER OF CRIPPLED CHILDREN APPLICATIONS, 1937—. 1 vol.

Register of applications for medical care of children, showing date application filed, name and sex of child, reports of examining physician and visiting investigator, approval or rejection of application, and application code and serial numbers. Arr. num. by application serial nos. No index. Typed. 20 pp. 9 x 15 x 1/2. Pub. welf. off.

474. INDIVIDUAL RECORD OF SERVICES FOR CRIPPLED CHILDREN. 1937—. 1 vol.

Individual record of services for crippled children, showing names and addresses of child, parent, hospital and foster home, application code and serial numbers, dates of admission to and dismissal from hospital, dates placed and removed from foster

home, description of service necessary, date and purpose of payment, name of payee, and number and amount of warrant. Arr. num. by serial nos. No index. Typed. 50 pp. 10 x 13 x 1/2. Pub. welf. off.

#### MOTHERS' AID

##### 475. MOTHERS' AID, 1925-. 3 f.d.

Papers of individual cases of assistance given needy mothers, showing name of recipient, date and amount granted, details and history of case, and signature of director of public welfare. Arr. alph. by names of mothers. No index. Typed. 11 x 16 x 27. Pub. welf. off.

##### 476. MOTHERS' AID, 1936-. 1 vol.

Record of financial and other assistance given mothers and children, showing name of mother, date and amount of financial allowance, and items of provisions furnished. 1936, arr. alph. by names of mothers; 1937-, arr. chron. by dates of allowances. No index. Typed. 200 pp. 9 x 15 x 1. Pub. welf. off.

#### RECEIPTS AND DISBURSEMENTS

##### 477. LEDGER OF DISBURSEMENTS AND APPROPRIATIONS, 1936-. 2 vols.

Record of all appropriations from state and disbursements therefrom, showing dates, numbers and amounts of appropriation and warrant, claim number, total disbursements for month and year to date, monthly budget allotments and adjustments, and balance. Arr. chron. by dates of appropriations and disbursements. No index. Hdw. 150 pp. 12 x 15 x 1. Pub. welf. off.

##### 478. SUPPORT MONEY AND BOARDING HOMES, 1936-. 1 vol.

Record of money received and disbursed for support of children in boarding homes, showing dates and amounts of receipts and disbursements, and names of ward, payer and payee. Arr. chron. by dates of receipts. No index. Typed. 250 pp. 10 x 13 x 1. Pub. welf. off.

##### 479. MONTHLY REGISTER OF CLAIMS FILED AND APPROVED AND WARRANTS ISSUED, 1936-. 1 vol.

Register of claims filed by county department of public welfare for approval of county welfare board and warrants issued by county auditor in payment of administrative expenses, showing numbers and amounts of claim and warrant, name of payee, and nature of expenditure. Arr. chron. by dates of claims. No index. Typed. 50 pp. 12 x 15 x 1. Pub. welf. off.

480. YEARLY REGISTER OF CLAIMS FILED AND APPROVED AND WARRANTS ISSUED, 1936-. 1 vol.

Duplicate copies of annual reports to state of all claims allowed and warrants issued, showing dates of report and claim, amount of claims allowed and warrants issued, names of claimants and appropriation charged, and total annual disbursements. Arr. chron. by dates of claims. No index. Typed. 75 pp. 12 x 15 x 1. Pub. welf. off.

481. PUBLIC WELFARE CLAIMS FOR PERSONAL SERVICE, 1937-. 1 vol.

Register of claims made and warrants issued for services of department of public welfare personnel, showing date of claim, name of employee, classification of service, number of days and period worked, rate per month, total earnings, and date, number and amount of warrant. Arr. chron. by dates of claims. No index. Typed. 75 pp. 10 x 17½ x ½. Pub. welf. off.

482. [STUB CHECK BOOK], 1936-. 2 vols.

Stub record of checks issued by department of public welfare to mothers for assistance to children, showing date, number and amount of check, names of payee and depository, purpose of issue, and monthly balance carried and brought forward. Arr. chron. by dates of checks. No index. Hdw. 75 pp. 9½ x 14 x 1. Pub. welf. off.

483. RECEIPTS FOR REPAYMENT OF PUBLIC ASSISTANCE, 1937-. 1 vol.

Copies of receipts issued for repayments made to department of public welfare for assistance rendered, showing date of receipt, amount of repayment, names of county and payer, receipt, code and serial numbers, and account credited. Arr. num. by receipt nos. No index. Typed. 100 pp. 17 x 9½ x ½. Pub. welf. off.

## XXVII. SURVEYOR

The surveyor is a constitutional officer, elected for a two-year term, without restriction on re-election. The office of surveyor was established in Allen County under the Constitution of 1851 and the Revised Statutes of 1852.<sup>1</sup> He must furnish bond in an amount fixed by the board of commissioners

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<sup>1</sup> Const., art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504.

of not less than \$5,000,<sup>2</sup> and he receives a statutory salary of \$2,400 per annum;<sup>3</sup> however, if the surveyor is a qualified engineer his salary shall be one and one-half times the stated amount.<sup>4</sup>

Prior to the Constitution of 1851, the surveyor was a statutory officer. He was appointed and commissioned by the governor before 1831,<sup>5</sup> after which time the board of commissioners became the appointing agency.<sup>6</sup>

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county and superintends all construction and maintenance of county ditches;<sup>7</sup> of the preparation of plans, specifications for, and supervision of the construction of all bridges, turnpikes, roads, and levees.<sup>8</sup> The board of commissioners appoints on recommendation of the surveyor such number of deputy surveyors as may be necessary, determines whether they shall be full-time or part-time employees, and fixes their salaries at not to exceed \$200 per month.<sup>9</sup> Deputies and assistants take an oath to faithfully discharge their duties, and the surveyor shall keep a record thereof in a book provided for that purpose. The deputies return to the surveyor all field notes taken by them, within 60 days thereafter.<sup>10</sup>

For private parties, the surveyor takes acknowledgments of mortgages and deeds for the conveyance of real estate,<sup>11</sup> and, upon request, makes surveys to establish lines and corners of lands.<sup>12</sup> Surveys made by the surveyor are prima facie evidence in favor of corners established and lines run, but

<sup>2</sup> Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

<sup>3</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>4</sup> Acts 1933; Burns 49-1010; Baldwin 7540.

<sup>5</sup> Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1824, ch. 18.

<sup>6</sup> Rev. Laws 1831, ch. 102, sec. 1.

<sup>7</sup> Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752.

<sup>8</sup> 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>9</sup> Acts 1933; Burns 27-102, 36-1103; Baldwin 5738, 8701. Acts 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

<sup>10</sup> 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

<sup>11</sup> 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

<sup>12</sup> Rev. Laws 1831, ch. 102, sec. 6. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510.

an appeal to the circuit court may result in a resurvey by some other competent person.<sup>13</sup>

The surveyor has general charge of the repair and maintenance of the county highways unless a highway supervisor is appointed; however, the surveyor has, until recently, served in both capacities in Allen County.<sup>14</sup> The compensation provided for the surveyor as highway supervisor is to be considered a part of his statutory salary and not in addition thereto.<sup>15</sup>

He is required to attend all sessions of the annual road school during his incumbency, the term of said school shall be for a period of not less than one week; all of his expenses are paid from the general fund of the county.<sup>16</sup> On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. The surveyor shall deliver a complete description of the meridian to be recorded with the recorder and he shall check his instruments against the line as often as necessary.<sup>17</sup>

The surveyor charges fees, provided by schedule, for his services.<sup>18</sup>

The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,<sup>19</sup> and a record of all surveys made by him.<sup>20</sup>

#### SURVEYS

484. SURVEYOR'S RECORD, 1833—. 7 vols. (A-D and 3 vols. not labelled).

Record of surveys made by surveyor, showing date of survey, names of property owner and surveyor, section, range and township numbers, and stations, elevations and measurements. Arr. chron. by dates of surveys. For index, see entry 485. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

<sup>13</sup> 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

<sup>14</sup> Acts 1933; Burns 36-1101; Baldwin 8699. Commissioners' Record, 19:602-603. See essay on Highway Supervisor.

<sup>15</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>16</sup> Acts 1925; Burns 49-3323; Baldwin 5520.

<sup>17</sup> Acts 1895; Burns 49-3327, 49-3328; Baldwin 10649, 10850.

<sup>18</sup> Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521.

<sup>19</sup> Rev. Laws 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>20</sup> 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

## 485. INDEX TO SURVEYOR'S RECORD, 1833-. 2 vols.

General index to Surveyor's Record, entry 484, showing title and location of survey, and volume and page reference to recording. Arr. alph. by titles of surveys. Hdw. 200 pp. 16 x 12 x 1½. Surv. off.

## 486. FIELD BOOKS, 1874-. 697 vols. (numbering varies).

Surveyor's field notes of measurements and level readings of surveys, including ditches, roads, bridges and miscellaneous surveys, showing date of survey, location of land markings, level readings and distances, acreage, and township, and section and range numbers. No orderly arr. For index, see entry 487. Hdw. 160 pp. 7 x 5 x 1. Surv. off.

## 487. INDEX TO FIELD BOOKS, 1874-. 18 vols.

Index to Field Books, entry 486, showing names of township, survey and surveyor, date and location of survey, and volume and page reference to recording. Arr. by twps., thereunder alph. by names of surveys. Hdw. 25 pp. 9 x 13 x ½. Surv. off.

## DRAINAGE

(See also entries 35-38, 141, 148, 494)

## 488. DRAINAGE RECORD, 1885-. 9 vols. (1, 1-7, 1 vol. not numbered).

Record of assessments of land owners benefited by construction, repair and cleaning of ditches, showing dates of assessment, construction, repair or cleaning of ditch, name and location of ditch, amounts of assessment and cost, and number of acres benefited. Arr. chron. by dates of recording. Indexed alph. by names of ditches. 1885-Apr. 1928; hdw.; May 1928-, typed. 300 pp. 18 x 12 x 3. Surv. off.

## 489. [DITCH CLEANOUT RECORD], 1933-. 1 vol.

Record of cost for cleaning ditches, showing dates of cleaning and payment, names of ditch, property owner and laborer, location and description of property benefited, and amount of cost. Arr. alph. by names of ditches. No index. Hdw. 75 pp. 10 x 13 x 1. Surv. off.

## 490. [TILE DITCH REPAIRS], 1933-. 1 vol.

Record of cost for maintenance of tiled ditches, showing date of repair, names of ditch, contractor and laborers, nature of repair, nature and amount of material used, hours of labor used, and total amount of cost. Arr. alph. by names of ditches. No index. Hdw. 250 pp. 10 x 13 x 2½. Surv. off.

## 491. INDEX TO PLATS AND PROFILES, not dated. 9 vols.

Index to [Ditches], entry 492; [Roads], entry 493; and [Roads,

Ditches, Bridges and Buildings], entry 494, showing names of project and township, and pigeon hole, cabinet and rack numbers. Arr. alph. by names of projects. Typed. 75 pp. 9 x 14 x ½. Surv. off.

492. [DITCHES], 1908-. 960 drawings in 200 pigeon holes (1-10 for each township).

Drawings of ditches, showing names of township, ditch and engineer, farm acreage benefited, location of roads and ditches, and flow of water. Hand drawn and blueprint. No scale given. Size varies. Arr. by twps. For index, see entry 491. Surv. off.

#### ROADS

(See also entries 31-34)

493. [ROADS], 1908-. 1,100 drawings in 200 pigeon holes (1-10 for each township).

Drawings, plans and profiles of roads, showing date of drawing, name, location and description of road, details and specifications of construction, and name of engineer. Hand drawn and blueprint. Scale varies. Size varies. Arr. by names of roads. For index, see entry 491. Surv. off.

494. [ROADS, DITCHES, BRIDGES AND BUILDINGS], 1921-. 4 cabinets (1-4) containing 25 racks each (1-25).

Drawings, plans and profiles of roads, ditches, bridges and buildings, showing date of drawing, name, location and description of project, and details and specifications of construction. Hand drawn and blueprint. Scale varies. Size varies. Arr. by twps. For index, see entry 491. Surv. off.

495. SURVEYOR'S REPORT OF PROPOSED ROAD IMPROVEMENTS, 1920-. 111 vols.

Record of reports of surveyor on proposed improvements of roads, showing date and number of report, name and location of road, specifications of improvement and materials, and estimate of cost. Arr. num. by report nos. No index. Typed. 80 pp. 9 x 13 x ½. Surv. off.

#### MAPS

496. ALLEN COUNTY, 1929-35. 7 maps.

Political and communication maps of Allen County, showing highways, townships, schools, churches, incorporated towns, railroads, rivers, rural mail routes, precincts, and commissioners' districts. Drawn by H. K. Gottschalk and O. M.

Darling. Published by Fort Wayne Blueprint Co. Blueprint. Scale varies. Size varies. Surv. off.

497. FORT WAYNE, 1920-25. 19 maps.

Political and communication maps of Fort Wayne, showing wards, precincts, parks, rivers, railroads, streets, alleys, manufacturing plants, and public buildings. Drawn by county surveyors and city engineers. Black and white. No scale given. Size varies. Surv. off.

498. MONROEVILLE, not dated. 1 map.

Political map of incorporated town of Monroeville, showing additions, streets, lots, and public buildings. Published by Fort Wayne Blueprint Co. Blueprint. Scale: 1" to 100'. 34 x 48. Surv. off.

499. SHIRLEY CITY, 1934. 1 map.

Political map of Shirley City, showing streets, lot numbers, business locations, and sewage system. Drawn by H. K. Gottschalk. Black and white. Scale: 1" to 100'. 36 x 23. Surv. off.

500. WAYNE DALE, not dated. 1 map.

Political map of unincorporated town of Waynedale, showing streets, alleys, lot numbers, and course of Thomas Ditch. Drawn by O. M. Darling. Published by Fort Wayne Blueprint Co. Blueprint. No scale given. 55 x 54. Surv. off.

501. MEMORIAL PARKWAY, 1931. 1 map.

Communication map of proposed parkway along the Maumee River, showing measurements and specifications of surveys. Drawn by H. K. Gottschalk. Published by Fort Wayne Blueprint Co. Blueprint. Scale: 1" to 1320'. 24 x 48. Surv. off.

502. WILDWOOD PARK, 1928. 1 map.

Plat map of Wildwood Park Addition to Fort Wayne, showing streets, alleys, and lot numbers. Published by Fort Wayne Blueprint Co. Blueprint. No scale given. 21 x 17. Surv. off.

503. INDIANA FARM [Fort Wayne State School], not dated. 1 map.

Plat map of grounds occupied by Indiana School for Feeble Minded Youth and adjacent territory, showing names and locations of buildings and names of streets in immediate vicinity. Black and white. No scale given. 54 x 96. Surv. off.

## XXVIII. COUNTY HIGHWAY SUPERVISOR

The highway supervisor of Allen County is appointed by the board of commissioners under the authority of an act of 1933 and serves at the will of the board. The board may appoint the surveyor or some other qualified person to the office; and if any individual other than the surveyor is appointed, he must attend all sessions of the annual road school at Purdue University during his incumbency.<sup>1</sup> Formerly the surveyor served as the highway supervisor.<sup>2</sup>

Road building began early in Indiana; thus many laws were enacted concerning the opening, operation, and maintenance of roads. Before 1879 the board of commissioners had general supervision and control of the county highways, with the aid of district road supervisors (appointed by the board), the township trustees, and township road superintendent.<sup>3</sup> From 1879 to 1913 the board of commissioners was constituted, by the general assembly, a board of turnpike directors for the management and control of county highways.<sup>4</sup> This board was abolished by an act of 1913 and the office of superintendent of highways was created. The superintendent was appointed by the board of commissioners and placed in charge of highways.<sup>5</sup> This office was abolished in 1933<sup>6</sup> and the office of highway supervisor created.<sup>7</sup>

The highway supervisor has general charge of the repair and maintenance of county highways, bridges, and culverts;<sup>8</sup> he maps all highways, dividing the roads into districts, giving each road a separate name or number, and setting forth the length and character of each road and the kind and volume of traffic for the purpose of uniform maintenance;<sup>9</sup> he exercises police power in the control of highways and may fix the

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<sup>1</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>2</sup> Commissioners' Record, 19:602, 603.

<sup>3</sup> Acts 1816 (general), ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. Laws 1824, ch. 87. Rev. Laws 1831, ch. 20, sec. 22. Rev. Laws 1831, ch. 82. Rev. Stat. 1843, ch. 16. 1 Rev. Stat. 1852, ch. 48.

<sup>4</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

<sup>5</sup> Acts 1913, ch. 330, sec. 1.

<sup>6</sup> Acts 1933; Burns 36-1113.

<sup>7</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>8</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>9</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

limit of loads for any highway, bridge, or culvert;<sup>10</sup> he establishes standards for maintenance according to topography, nature, and volume of traffic, and the availability of repair materials; and he makes a complete itemized estimate of the cost of repair and maintenance of highways, bridges, and culverts for the annual budget.<sup>11</sup> He attends all regular meetings of the board of commissioners, and advises with them concerning repair and maintenance of the county roads.<sup>12</sup> The board of commissioners employs and determines the wages of all the necessary road assistants; but such assistants are under the direct supervision of, and make their reports to the surveyor or highway supervisor.<sup>13</sup>

The records of the highway supervisor are maps of the highway system made by him,<sup>14</sup> reports of work in progress,<sup>15</sup> monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.<sup>16</sup>

504. EXPENDITURES FOR FREE GRAVEL ROAD REPAIRS, 1925-.  
4 vols.

Ledger of expenditures for maintenance of highways, showing date and total amount of expenditure, name of payee, kind of material purchased, and appropriation account charged. Arr. chron. by dates of expenditures. No index. Hdw. 351 pp. 27 x 14 x 3. High. sup. off.

505. MOTOR EQUIPMENT TITLES, 1925-. 1 f. d.

Title record of motor equipment belonging to highway department, showing date of title, name of owner, type, make and model of motor equipment, and title and engine serial numbers. Arr. chron. by dates of titles. No index. Typed. 11 x 13 x 26. High. sup. off.

506. PAYROLL VOUCHERS, 1931-. 30 bdl.

Daily time reports and semimonthly payroll sheets of time worked by employees, showing dates of reports and payroll sheets, name of employee, number of hours worked, rate per

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<sup>10</sup> Acts 1933; Burns 36-1102; Baldwin 8700. The act names the surveyor but the highway supervisor performs all such duties under authority of the act of 1933; Burns 36-1110; Baldwin 8708.

<sup>11</sup> Acts 1933; Burns 36-1103; Baldwin 8701.

<sup>12</sup> Acts 1933; Burns 36-1104; Baldwin 8702.

<sup>13</sup> Acts 1933; Burns 36-1107; Baldwin 8705.

<sup>14</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>15</sup> Acts 1933; Burns 36-1106; Baldwin 8704.

<sup>16</sup> Acts 1933; Burns 36-1104; Baldwin 8702.

hour, and total amount of wages due employee. Arr. by road districts. No index. Hdw. 9 x 6 x 9. High. sup. off.

507. WORK REPORT SHEETS, 1932-. 30 bdl., 4 f. b.

Reports of cost of construction by highway department, showing date of report, period covered, names of road and employees, classification of labor, hours worked, rate per hour, amount earned, and amount and cost of material used. Arr. chron. by dates of reports. No index. Hdw. Bdl., 9 x 6 x 9; f. b., 11 x 5 x 14. High. sup. off.

508. INVENTORY OF EQUIPMENT, 1932-. 1 f. d.

Inventory of highway department tools and equipment, showing date of inventory, and itemized list and location of tools and equipment. Arr. chron. by dates of inventories. No index. Hdw. 11 x 13 x 26. High. sup. off.

## XXIX. COUNTY AGRICULTURAL AGENT

The agricultural agent of Allen County is appointed by the director of agricultural extension service of Purdue University, subject to the approval of the state board—called the county agricultural agent board—under the authority of laws of 1913, 1923, and 1927, as amended in 1937. His qualifications are prescribed by the board; and the county council is required to appropriate \$1,000 annually for the expenses of the office, and the state pays \$2,000 annually as salary for the county agent through Purdue University.<sup>1</sup>

This office was created by an act of 1913, providing for its establishment on petition of 20 county residents and deposit of \$500, and was thus continued until the amendatory act of 1937 made the office mandatory. The agent was appointed annually by Purdue University, subject to approval of the state and county boards of education. The state paid \$1,000 annually on his salary.<sup>2</sup> Before 1913 interest in agriculture was stimulated by private societies.

The agricultural agent, under the supervision of Purdue University, co-operates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural

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<sup>1</sup> Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

<sup>2</sup> Acts 1913, ch. 24, sec. 12.

and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.<sup>3</sup>

Allen County has a home demonstration agent to develop extension programs for the improvement and advancement of agriculture, home economics, and rural life, in harmony with federal and state laws and in close co-operation with the work of the county agricultural agent. The agricultural extension division of Purdue University selects the home demonstration agent and supervises her work. She must be a graduate of a recognized school of home economics and have some practical experience in teaching. Her salary is paid by Purdue University from federal-land-grant-college funds. Her office expenses are paid from funds appropriated by the county council. Her term of office is indefinite but terminates with marriage. She directs all home economic extension work, both adult and junior, including boys' and girls' 4-H clubs, and co-operates with the county schools.<sup>4</sup>

The records of the agricultural agent and home demonstration agent consist of reports to Purdue University concerning their activities, compiled under the direction of the university.<sup>5</sup>

509. ANNUAL REPORTS, 1915-. 22 vols.

Summary of monthly reports of all activities of agricultural extension service, showing date of report, names of agent and county, number of farm visits, nature and number of projects, activities on grain, fruit and vegetable growing, cattle, sheep, swine and horse raising, farm management, marketing of crops, and home demonstration and 4-H club activities. Arr. chron. by dates of reports. No index. Typed. 60 pp. 11 x 8½ x ½. Agr. agt. off., rm. 324, Federal Bldg., Fort Wayne.

510. ANNUAL REPORTS, 1921-. 1 f.d.

Copies of annual narrative reports of all activities of agricultural agent to Purdue University agricultural extension service, showing same information as entry. Arr. chron. by dates of reports. No index. Hdw. 12 x 14 x 27. Agr. agt. off., rm. 324, Federal Bldg., Fort Wayne.

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<sup>3</sup> Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

<sup>4</sup> Acts of Congress 1914; U. S. C., title 7, secs. 341 to 343, 344 to 348. Acts 1931; Burns 28-5627; Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

<sup>5</sup> Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

## 511. BILLS PAID, 1932-. 1 f. d.

Copies of claims presented to commissioners for payment of operating expenses of agricultural agent, showing date, amount and purpose of claim, and name of claimant. Arr. chron. by dates of claims. No index. Typed. 12 x 14 x 27. Agr. agt. off., rm. 324, Federal Bldg., Fort Wayne.

## 512. HOME DEMONSTRATION AGENT ACTIVITIES, 1938-. 4 f. d.

Documents of all activities, including minutes of meetings, election of officers, various programs, 4-H and womens' federation of clubs, enrollment and active list of participants, contests and extension work, reports of progress, recommendations for further work, and annual report to Purdue University. No orderly arr. No index. Hdw. and typed. 13 x 11 x 25. Agr. agt. off., rm. 324, Federal Bldg., Fort Wayne.

## XXX. PURCHASING AGENT

In order to promote greater economy in the operation of county business, the general assembly in 1921 created the office of county purchasing agent in each county of the state having a population of more than 110,000 and less than 150,000, according to the current federal census.<sup>1</sup>

The agency in Allen County is operated and maintained for the purchasing of all or certain of the supplies and material such as, under existing and future laws, are permitted to be purchased with the county's funds, and for the sale, exchange or other disposition of personal property of such county.<sup>2</sup> The board of county commissioners, with the advice and assistance of the county auditor, formulates and enters in the county commissioners' record a statement prescribing and defining the field of activity of the purchasing agent. They decide whether the agency shall cover all purchases made with county funds, or, if not, what portions thereof. They make such rules and regulations as may be necessary to define the scope and method of activities of the personnel of such agency, and the means for carrying out the same under the general powers granted such individuals. Such rules and regulations may, from time to time, be amended or abolished.<sup>3</sup>

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<sup>1</sup> Acts 1921; Burns 26-1601, 26-1602; Baldwin 5206, 5207.

<sup>2</sup> Acts 1921; Burns 26-1601, 26-1607; Baldwin 5206, 5212.

<sup>3</sup> Acts 1921; Burns 26-1601; Baldwin 5206.

The purchasing agent is appointed by the board of commissioners under oath and a bond of not less than \$10,000.<sup>4</sup> He appoints and discharges, at his discretion, the employees permitted him.<sup>5</sup>

The purchasing agent must buy all supplies and material required by the original and duplicate requisitions received by him and approved by the board of commissioners. He must make such purchases and contract for future purchases in the manner, at such times, and of such persons, firms, or corporations, wherever situated, as will require the least outlay for the largest quantity of supplies and material of the quality and kind approved for purchase under the rules and regulations adopted for the agency.<sup>6</sup>

Requisitions must be presented to the agency 30 days before the articles are to be needed, or in emergencies, as soon as the need is known.<sup>7</sup>

The county council appropriates the funds necessary to conduct the business of the agency and to cover all allowances made by the board of county commissioners.<sup>8</sup> The county board of commissioners has the agency's accounts audited at least once a year.<sup>9</sup>

513. PLANS AND SPECIFICATIONS, 1921-. 1 f. d.

Plans and specifications of various county buildings, showing dimensions, plans of rooms, power, water and pipe lines, and equipment. No orderly arr. No index. Hdw. 11 x 13 x 27. Pur. agt. off.

514. PURCHASE ORDERS, 1924-. 25 cartons, 26 bdl., 65 f. b. Copies of purchase orders and vendors' invoices for materials and supplies purchased, showing dates of order and invoice, requisition, order and warrant numbers, names of vendor and department receiving supplies, quantity purchased, unit price, amount and terms of purchase, and appropriation charged. 1924-36, arr. num. by order nos.; 1937-, arr. alph. by names of vendors. No index. Typed. Cartons, 28 x 28 x 10; bdl., 7½ x 10 x 4; f. b., 11 x 5 x 14. 25 cartons, 1924-35, attic stor. rm.; 26 bdl., 65 f. b., 1936-. Pur. agt. off.

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<sup>4</sup> Acts 1921; Burns 26-1602, 26-1603; Baldwin 5207, 5208.

<sup>5</sup> Acts 1921; Burns 26-1604; Baldwin 5209.

<sup>6</sup> Acts 1921; Burns 26-1605; Baldwin 5210.

<sup>7</sup> Acts 1921; Burns 26-1606; Baldwin 5211.

<sup>8</sup> Acts 1921; Burns 26-1608; Baldwin 5213.

<sup>9</sup> Acts 1921; Burns 26-1607; Baldwin 5212.

## 515. RECORD OF PURCHASE ORDERS, 1927-. 13 vols.

Register of purchase orders for materials and supplies, showing dates and numbers of purchase order and warrant, name of vendor, appropriation charged and department receiving supplies, items purchased, terms of purchase, and amount paid. Arr. num. by purchase order nos. No index. Hdw. 175 pp. 14 x 15 x 1½. Pur. agt. off.

## 516. BIDDERS' RECORD, 1936-. 2 vols.

Record of bids submitted for furnishing materials and supplies to county, showing date and amount of bid, name of bidder, kind and quantity of materials and supplies, and date and name of publication. Arr. chron. by dates of bids. No index. Hdw. 100 pp. 11½ x 9 x 1. Pur. agt. off.

## XXXI. COMMISSION OF PUBLIC RECORDS

The commission of public records of Allen County, created under an act of 1939, consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The commission elects one of its members as chairman. The clerk of the circuit court is secretary.<sup>1</sup>

The members of the commission serve without compensation and receive no reimbursement for any expenses.<sup>2</sup>

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.<sup>3</sup> An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office.<sup>4</sup> An act of 1937 amended that of 1925 by a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material

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<sup>1</sup> Acts 1939, ch. 91, sec. 1. For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

<sup>2</sup> Acts 1939, ch. 91, sec. 1.

<sup>3</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>4</sup> Acts 1925; Burns 63-830; Baldwin 10287.

in any public office, for preservation in the state archives.<sup>5</sup> An act of 1935 created within the executive department of the state a commission on public records, consisting of the governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with that of 1939 creating a commission of public records in each county, except for the provisions relative to ex officio members of the commission.<sup>6</sup> These laws reflect the attitude of the general assembly toward the preservation of public records.

It is the duty of the commission to classify public records on the following basis: Those (a) of neither official nor historical value; (b) of current official value, to be retained in the office to which they belong; (c) of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; (d) of purely historical value.<sup>7</sup>

Records of class (a), occupying space to no purpose in offices and storerooms, must be destroyed or otherwise disposed of three years after they were originally filed, unless a law requires that they be saved beyond that period or altogether prohibits their destruction.<sup>8</sup>

Records of classes (c) and (d) must be transferred to the state library three years after the date of the filing, unless they are then in frequent use by the officer in charge. In event of such transfer, the records of class (c) will be added to the archives of the library, while those of class (d) will constitute a part of the collections of that institution.<sup>9</sup>

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.<sup>10</sup>

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.<sup>11</sup>

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<sup>5</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>6</sup> Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

<sup>7</sup> Acts 1939, ch. 91, sec. 2.

<sup>8</sup> *Ibid.*, secs. 3, 4.

<sup>9</sup> *Ibid.*, secs. 4-6.

<sup>10</sup> *Ibid.*, sec. 7.

<sup>11</sup> *Ibid.*, sec. 8.

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.<sup>12</sup>

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<sup>12</sup> *Ibid.*, sec. 9.



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